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USE OF THE LETHAL FORCE BY POLICE: LITHUANIAN CASES IN ECtHR

Aurelija Pūraitė*

**Mykolo Romerio universiteto Viešojo saugumo fakulteto Teisės katedra*
Putvinskio g. 70, LT-44211 Kaunas
Telefonas 303655
El. paštas: aurelija.puraite@gmail.com

Annotation. The role of the police is pivotal in a democratic society if the concept of human rights remains meaningful and human rights are still to be protected in the light of international terrorism, unconventional and civil wars, crisis of refugees and other challenges to the existence of the rule of law principle in modern democracies. Because of the repressive nature of the work of the police, sometimes because of the lack of philosophical view to human rights and the role of the police, also make the police responsible for human rights abuses, especially those connected to right to life, prohibition of torture, inhuman or degrading treatment, illegal detainment of persons (through excessive use of force, discriminatory practices), etc. The right to life (Article 2 of the Convention) is one of the most fundamental provisions in the Convention. Together with the protection from torture, it enshrines the basic values of democratic societies, and its interpretation must be guided by a recognition of its importance. In this article the violations of the right to life that occur during police activities, most precisely by using force by police officers, are analyzed. The aim of this article is to disclose the scope of the right foreseen in Article 2 of the European Convention on Human Rights and to discuss the possible circumstances in which a state through actions of its officials (particularly – police officers) may legitimately interfere with the exercise of this right depriving right to life by using lethal force. The deprivation of life caused by actions of state authorities and the obligation of the states to investigate such actions by the form of independent and public scrutiny determining whether the force used was or was not justified in a particular set of circumstances are discussed.

Keywords: human rights, right to life, lethal force, European Court of Human Rights.

INTRODUCTION

Relevance of the Topic. The changing global environment in which police enforces its activities require a new understanding of the role of the police, also a new concept of the interlink between human rights and policing must be established. The role of the police is pivotal in a democratic society if the concept of human rights remains meaningful and human rights are still to be protected in the light of international terrorism, unconventional and civil wars, crisis of refugees and other challenges to the existence of the rule of law principle in modern democracies. The police historically are presumed as being the main protector of human rights, acting on behalf of the state. But at the same time because of the repressive nature of the work of the police, sometimes because of the lack of philosophical view to human rights and the role of the police, also make the police responsible for human rights abuses, especially

those connected to right to life, prohibition of torture, inhuman or degrading treatment, illegal detainment of persons (through excessive use of force, discriminatory practices), etc.

The European Convention for Protection of Human Rights and Fundamental Freedoms (hereinafter The European Convention on Human Rights, or the Convention)[1] was signed on 4 November 1950 in the scope of the Council of Europe. Almost all of the States Party to the Convention integrated the Convention into their national legislation. Therefore the Convention is binding on domestic courts and national public authorities. It could be stated that the Convention itself is the most specific expression by the member states of the Council of Europe of their profound belief in the values of democracy and justice, and respect for the rights and fundamental freedoms of people living in the modern society[2]. The direct application of the Convention means that each individual under jurisdiction of the Party State to the Convention may invoke it in case he/she considers the corresponding rights of the individual have been violated, and the domestic courts have an obligation to apply the Convention. The characterization of the Convention as a "living instrument" and the emphasizing its evolutive interpretation "have become a common feature"[3] of this legal instrument. Notwithstanding the importance of the Convention itself, the decisions of the European Court on Human Rights (hereinafter The Court, or the ECtHR) are recently being criticized going too far into interfering with national judicial policies. On the other hand, the Court is being criticized for changing its own practice, departing from legal certainty, foreseeability and trying to maintain a dynamic approach interpreting the Convention in the light of present – day conditions[4]. This doctrine, developed throughout the recent case-law practice of the ECtHR, is of the utmost importance bearing in mind the international situation and conflict, in which the state authorities act and may use force.

The right to life itself is a self-evident. No other human right may exist if right to life is not protected or violated, therefore right to life is considered to be as a primary right. The right to life (Article 2 of the Convention) is one of the most fundamental provisions in the Convention. Together with the protection from torture (Article 3 of the Convention), it enshrines the basic values of democratic societies, and its interpretation must be guided by a

[1] Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 1950, entered into force 3 September 1953). ETS 5; 213 UNTS 221 (ECHR).
[2] Introduction to European Convention on Human Rights. Collected texts. Council of Europe, 1994. p. 8.
[3] Fitzmauroce, M. Merkouris, P. (eds) The Interpretation and Application of the European Convention of Human Rights. Legal and Practical Implications. Leiden, Boston: Martinus Nijhof Publishers, 2013, p. xi.
[4] See, for example, Flogaitis, S., Zwart, T., Fraser, J. (eds) The European Court oh Human Rights and Its Discontents. Turning Criticism into Strength. Cheltenham (UK), Northampton (USA): Edward Elgar, 2013, p. 49.

recognition of its importance. In this article we shall stress our attention to violations of the right to life that occur during police activities, most precisely by using force by police officers. Therefore in the scope of this article the deprivation of life caused by actions of state authorities shall be analyzed. In relation to the scope of the investigation, Article 2 requires that agents of the State must be accountable for their use of lethal force. Their actions, therefore, must be subjected to some form of independent and public scrutiny capable of determining whether the force used was or was not justified in a particular set of circumstances.

The Object of the Research is right to life as foreseen in European Convention on Human Rights and its violations reflected in Lithuanian cases in European Court of Human Rights.

The Objective of this Research therefore is to disclose the scope of right foreseen in Article 2 of the European Convention on Human Rights and to discuss the possible circumstances in which a state through actions of its officials (particularly – police officers) may legitimately interfere with the exercise of this right depriving right to life by using lethal force. To achieve the aim further **tasks** are settled: to analyze the scope of the right to life indicated in the Article 2 of the Convention; to reveal possible derogations from this right and circumstances in which the state may intervene with the exercise of this right; to discuss the case-law practice of European Court of Human Rights (the Court) in respect of protection of right to life, in particular stressing those few Lithuanian cases in respect of this right.

Methodology of the Research. In the course of reaching the objective of the research both theoretical and empirical methods of scientific research were employed—the methods of comparative, systemic, analytical-critical analysis. In addition, the methods of documentary analysis and generalization were used.

The case-law of the ECtHR in fact provides quite a sound and plentiful guidance on the requirements which must be applied to law enforcement officials, and it is of absolute importance that those guidelines are known for state officials and included in the standard routine of trainings, which, unfortunately, it is not the case of the present educational system of Lithuanian law enforcement officials. Therefore this article may be one of the sources about the present situation of Lithuania and may slightly highlight major points of the relevance of proper application of lethal force in respect to the right to life.

RIGHT TO LIFE AND OBLIGATIONS OF THE STATE

Article 2[5] of the Convention (amended by corresponding Protocols No 6 and 13, abolishing death penalty foreseen in Paragraph 1 of the Article 2) imposes two types of duties on the state (and its officials). First of all there exists a negative obligation not to deprive anyone of his/her life except in the limited circumstances prescribed by Paragraph 2 of Article 2.

In this article we shall not analyze the states obligation to defend one's right to life imposing criminal sanctions against those who take lives of others. Such laws must be formulated with sufficient precision and in such a way as to provide sufficient protection for the lives of individuals. States do have a certain amount of discretion in determining whether to criminalize certain acts. This aspect of Article 2 shall not be discussed as we emphasize our attention to states active obligation not to deprive one's right to life by the actions of the state officials.

A few issues should be noted due to states positive obligation to safeguard lives of people from others offering proper police protection. In certain well-defined circumstances, the Court has found that State authorities may have a positive obligation to take preventive operational measures to protect an individual whose life is at risk, for example from the criminal acts of another individual. The Court is mindful to ensure that such an obligation does not impose an impossible or disproportionate burden on the authorities and will take into consideration "the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices that must be made in terms of priorities and resources". The clearest statement by the Court of this obligation was in *Osman v UK*[6], in this case the Court found no violation of Article 2 since it had not been established that the authorities failed to take

[5] Article 2: „1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction for a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
a) in defence of any person from unlawful violence;
b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
c) an action lawfully taken for the purposes of quelling a riot or insurrection."

[6] *Osman v. The United Kingdom* (Application No. 87/1997/871/1083) 28 October 1998. The applicants applied complaining that there had been a failure to protect the lives of Ali and Ahmet Osman and to prevent the harassment of their family. The applicants asserted that by failing to take adequate and appropriate steps to protect the lives of the second applicant and his father, Ali Osman, from the real and known danger which Paget-Lewis posed, the authorities had failed to comply with their positive obligation under Article 2 of the Convention. http://hudoc.echr.coe.int/eng#{"languageisocode":["ENG"],"respondent":["GBR"],"article":["2","2-1","2-2"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-58257"]} [accessed 2016-11-20]

reasonable steps to avoid a real and immediate risk to life of which they were aware or ought to have been aware.

There is also a positive obligation on the state to take appropriate measures to safeguard the lives of those within its jurisdiction. In particular, this positive obligation includes a duty to put in place "effective criminal law provisions to deter the commission of offences against the person, backed up by law enforcement machinery for the prevention, suppression and sanctioning of breaches of such provisions" (*Osman v UK*, Para.115). In certain well-defined circumstances, State authorities will also have a positive obligation to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of other private individuals, environmental hazards or even him/herself. Furthermore, all deaths must be properly investigated.

The obligation to take measures to safeguard the lives of those held in custody is especially stringent under Article 2 by virtue of their vulnerable position. In particular, States must take reasonable measures to protect prisoners from committing suicide (*Keenan v United Kingdom*[7]) and from being killed by another person in custody (*Paul and Audrey Edwards v United Kingdom*[8]). The same test set out in other cases, namely that for a violation of Article 2 to be established, it must be demonstrated that the authorities failed to take reasonable steps to avoid a real and immediate risk to life of which they were aware or ought to have been aware.

The European Court of Human Rights did not rule upon the right to life until 1995, when in *McCann v. United Kingdom*[9] it ruled that the exception contained in the second paragraph of the article does not constitute situations when it is permitted to kill, but situations where it is permitted to use force which might result in the deprivation of life. The fundamental nature of the right to life means that these exceptions are exhaustive and must be construed narrowly. Furthermore, Paragraph 2 of Article 2 is not intended to be a list of situations in which

[7] *Keenan v. The United Kingdom* (Application no. 27229/95) 3 April 2001. http://hudoc.echr.coe.int/eng#-{"languageisocode":["ENG"],"respondent":["GBR"],"article":["2","2-1","2-2"],"itemid":["001-59365"]} [accessed 2016-11-20]

[8] *Paul and Audrey Edwards v. The United Kingdom* (Application no. 46477/99), 14 March 2002. http://hudoc.echr.coe.int/eng#{"languageisocode":["ENG"],"respondent":["GBR"],"article":["2","2-1","22"],"-itemid":["001-5908"]} [accessed 2016-11-20]

[9] *McCann v. United Kingdom* (Application no. 18984/91) 27 September 1995. Three terrorists who had been planning a bomb attack in Gibraltar were shot and killed by British police forces. However, the UK's assertion that they were defending the general public was not held to be within the meaning of absolute necessity because the suspected terrorists could have been prevented from entering Gibraltar in the first place, even if this meant the authorities may not have had ample evidence to prosecute the suspects at that stage. The Court found that the planning of the counter terrorist operation had not taken adequate account of the fundamental importance of the right to life. http://hudoc.echr.coe.int/eng#{"languageisocode":["ENG"],"respondent":["GBR"],"article":["2","2-1","2-2"],"itemid":["001-57943"]} [accessed 2016-11-20]

intentional killing is justified, rather it sets limits on the use of force which may result in death. The use of force must be no more than "absolutely necessary" to achieve one of the purposes set out in sub-paragraphs, where is foreseen that deprivation of life is only possible in the circumstances where: in defense of any person from unlawful violence; in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; in action lawfully taken for the purpose of quelling a riot or insurrection.

The use of the word "absolutely" provides for a stricter test than applied when determining whether a State interference is "necessary in a democratic society". The use of force must be strictly proportionate to the achievement of the aims set out in Paragraph 2 of Article 2. In case *Bazorkina v. Russia*[10] the Court stated that "Article 2, which safeguards the right to life and sets out the circumstances when deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention, to which no derogation is permitted. The circumstances in which deprivation of life may be justified must therefore be strictly construed. The object and purpose of the Convention as an instrument for the protection of individual human beings also requires that Article 2 be interpreted and applied so as to make its safeguards practical and effective".

The state also has an obligation to investigate the cases when law enforcement officials used excessive force which resulted into death or serious injuries of the persons. In *Jordan v United Kingdom*[11] the Court held that for Article 2 to be satisfied an investigation must comply with the following procedural safeguards: a) It must be carried out by an independent body in public. A note on the independence of the persons responsible for carrying out the investigation. Generally, this means that they must be independent from those implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical

[10] *Bazorkina v. Russia* (Application no. 69481/01) 27 July 2006. The applicant claimed that the authorities were responsible for the disappearance and killing of her son Khadzhi-Murat Yandiyev. She referred to the known circumstances of his detention, an explicit order by a senior military officer to execute him and the long period of time during which his whereabouts had not been established. The Government, in her view, had failed to provide any reliable information about what had happened to him after the interrogation, and there was no record found of him having been detained at the filtration point, pre-trial detention centre or other facilities, or of his having received medical aid, etc. The Court stated that "In the light of the importance of the protection afforded by Article 2, the Court must subject deprivations of life to the most careful scrutiny, taking into consideration not only the actions of State agents but also all the surrounding circumstances." http://hudoc.echr.coe.int/eng#{"itemid":["001-76493"]} [accessed 2016-11-20]

[11] *Jordan v United Kingdom* (Application no. 24746/94), 4 May 2001. Pearse Jordan, aged 22, was shot and killed in Belfast by an officer. The police officers stated they were pursuing the car. On stopping the car, the officers had fired several shots at the driver, fatally wounding him a short distance from where his car had been abandoned. No guns, ammunition, explosives, masks or gloves had been found in the car and the driver, Pearse Jordan, had been unarmed. http://hudoc.echr.coe.int/eng#{"languageisocode":["ENG"],"respondent":["GBR"],"article":["2"-,"2-1","2-2"],"itemid":["001-59450"]} [accessed 2016-11-20]

independence. In *Jordan v United Kingdom* an investigation into the conduct of police officers in Northern Ireland by police officers who were part of the same force was also held to lack sufficient independence. b) It must be through and rigorous. Article 2 has been violated where authorities have failed to: ascertain possible eye witnesses; question suspects at a sufficient early stage of the inquiry; search for corroborating evidence; take into account obvious evidence; carry out a proper autopsy; test for gunpowder traces (see also *Bazorkina v. Russia*), where the Court held that "the obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", also requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force. The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving state agents or bodies, to ensure their accountability for deaths occurring under their responsibility. For an investigation into alleged unlawful killing by state agents to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events". c) It must be capable of imputing responsibility for the death. (in case *Bazorkina v. Russia* (par. 118) the Court stated that "The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances and to the identification and punishment of those responsible". As to the scope, if agents of the State are responsible, it must be capable of determining whether the killing was or was not justified under Article 2(2) and it must be able to identify and punish those responsible.

Any investigation must also be capable of considering any systemic failures that could have cause the death, for example the planning and organization of a rescue operation and the planning of anti-terrorist police operations (*McCann v United Kingdom*).

USE OF LETHAL FORCE IN RESPECT OF RIGHT TO LIFE

The prohibition of taking the life of a person extends to the use of force resulting in unintentional, as well as to the intentional situations. The use of force by the officials of the State, causing deaths of people, must be strictly proportionate to the achievement of the aims set out in Article 2 (2) (it should be mentioned, that physical assault by state officials not

resulting in death will almost always be a subject of the examination under Article 3[12] of the Convention). There is an obvious conflict between the right to life of the potential assailant, on the one hand, and the rights of the rest of the society (including law enforcement officials) not to be subject of crime. Also the most often situations when law enforcement officials use force (sometimes lethal) (pursuit of a lawful arrest, preventing the escape of a person lawfully detained, lawful quelling of a riot – those foreseen in the Article 2) raises a potential conflict between the right to life and these specific public interests. As S. Greer noticed, "the tension between the right to life and the public interest is particularly apparent where lethal force has been used by law enforcement personnel"[13].

Therefore use of the lethal force must be examined taking into consideration not only the actions of the agents of the State who actually administer the force but also all the surroundings circumstances. This rule was first settled in *McCann v UK*, where the Court held that where deliberate lethal force used by officials is used the most careful scrutiny must be applied not only to the actions of the agents of the State to actually administer the force, but also the surrounding circumstances including such matters as the planning and control of the actions under examination. When planning security operations which may or do result in the use of lethal force the following should be taken into account: a) The right to life of the general population and also of the suspects (*McCann v UK*); b) Precautions taken to avoid or minimize incidental loss of civilian life, for example use of appropriate weapons (*Güleç v Turkey*[14]); c) Training given to those involved (*McCann and Stewart cases*); d) The calculations of risk made consideration of whether the suspects are armed (*Nachova v Bulgaria case*[15]). An honest but

[12] Article 3: „No one shall be subjected to torture or to inhuman or degrading treatment or punishment."
[13] Greer, S. *The European Covention on Human Rights. Achievements, Problems and Prospects*. Cambridge: Cambridge University Press, 2006, p. 243.
[14] *Güleç v. Turkey* (Application no. 54/1997/838/1044) 27 July 1998. The applicant asserted that his son had been killed by a bullet fired by the security forces during the demonstration of 4 March 1991, while he was trying to make his way home. He further complained that the gendarmes had used excessive force and that there had been no proper investigation into the circumstances of his child's death. Demonstration was far from peaceful – confronted with acts of violence which were, admittedly, serious, security forces called for reinforcements and armoured vehicles were deployed. The Court stated that: "the Court accepts that the use of force may be justified in the present case under paragraph 2 (c) of Article 2, but it goes without saying that a balance must be struck between the aim pursued and the means employed to achieve it. The gendarmes used a very powerful weapon because they apparently did not have truncheons, riot shields, water cannon, rubber bullets or tear gas. The lack of such equipment is all the more incomprehensible and unacceptable because the province of Şırnak, as the Government pointed out, is in a region in which a state of emergency has been declared, where at the material time disorder could have been expected." http://hudoc.echr.coe.int/eng#{"respondent":["TUR"],"article":["2","2-1","2-2"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-58207"]} [accessed 2016-11-20]
[15] *Nachova and others v Bulgaria* (Applications nos. 43577/98 and 43579/98) 6 July 2005. Two persons (Roma Origin) were killed by a member of the military police who was attempting to arrest them. The Court held, that

mistaken belief may, however, be sufficient to satisfy Article 2. The burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation that the use of force was within the scope absolute necessity in a democratic society.

The Court in various cases has emphasized the need for proper warnings to be given before potentially lethal force is used (*Ogur v Turkey*[16]). All opportunities to surrender must be given and the use of force must be the option of last resort. For example, in *Kelly v United Kingdom*[17] it was found that the lethal shooting by soldiers of suspected terrorists who drove through a checkpoint without stopping was absolutely necessary in order to give effect to the lawful arrest. In *Nachova v Bulgaria* the Court found it was not absolutely necessary to use firearms to arrest a non-violent offender who posed no threat to anyone. The Court held, under those circumstances, the use of firearms would be unlawful even if it means the loss of opportunity to arrest.

Self-defense by the police officers can be a defense for the taking of life under Paragraph 2 Article 2. It justifies "the use of force in self-defence only if it is "absolutely necessary"[18].

„In particular, it is necessary to examine whether the operation was planned and controlled by the authorities so as to minimize, to the greatest extent possible, recourse to lethal force. The authorities must take appropriate care to ensure that any risk to life is minimized. The Court must also examine whether the authorities were not negligent in their choice of action. Notwithstanding that the victims committed offences ... the evidence shows that the arresting officers were fully aware that victims were not armed or dangerous... balanced against the imperative need to preserve life as a fundamental value, the legitimate aim of effecting a lawful arrest cannot justify putting human life at risk where the fugitive has committed a non-violent offence and does not pose a threat to anyone. Any other approach would be incompatible with the basic principles of democratic societies, as universally accepted today". (par.103).http://hudoc.echr.coe.int/eng#{"respondent":["BGR"],"article":["2","21","22"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-69630"]} [accessed 2016-11-20]

[16] *Ogur v Turkey* (Application no. 21594/93) 20 May 1999. The applicant lost her son during an operation by the security forces. The victim had not been running away; no loud-hailer warning had been given before firearms were used; and that the victim have been fatally wounded by a shot from the security forces that was not a warning shot. The Court held that: „In keeping with the importance of this provision in a democratic society, the Court must, in making its assessment, subject deprivations of life to the most careful scrutiny, particularly where deliberate lethal force is used, taking into consideration not only the actions of the agents of the State who actually administer the force but also all the surrounding circumstances including such matters as the planning and control of the actions under examination". (par. 78). http://hudoc.echr.coe.int/eng#{"respondent":["TUR"],"article":["2","21","22"],"documentcollectionid2":["GRANDCHAMBER"-,"CHAMBER"],"itemid":["001-58251"]} [accessed 2016-11-20]

[17] *Kelly and others v United Kingdom* (Application no. 30054/96) 4 August 2001. The Court stated that: "the text of Article 2, read as a whole, demonstrates that it covers not only intentional killing but also the situations where it is permitted to "use force" which may result, as an unintended outcome, in the deprivation of life. The deliberate or intended use of lethal force is only one factor however to be taken into account in assessing its necessity. Any use of force must be no more than "absolutely necessary" for the achievement of one or more of the purposes set out in sub-paragraphs (a) to (c). This term indicates that a stricter and more compelling test of necessity must be employed from that normally applicable when determining whether State action is "necessary in a democratic society" under paragraphs 2 of Articles 8 to 11 of the Convention. Consequently, the force used must be strictly proportionate to the achievement of the permitted aims" (par. 93). http://hudoc.echr.coe.int/eng#{"languageisocode":["ENG"],"respondent":["GBR"],"article":["2","2-1","2-2"],"itemid":["001-59453"]} [accessed 2016-11-20]

[18] See, for example, Harris, D. J., O'Boyle, M., Bates, E.P., Buckley, C.M., and others. *Law of the European Convention on Human Rights*. Second Edition. Oxford: Oxford University Press, 2009, p. 63.

This test was not complied in *McCann v UK*, but in *Andronicou and Constantinou v Cyprus*[19] the Court stated that usage of the lethal force by special forces, which lead to the death of two persons (the young man who kept his fiancé hostage with a gun, both were killed) was justifiable in defense of the officials and the fiancé. The Court held that actual killing as well as he planning and control of the whole operation was "strictly proportionate". The State is such cases will be required to supply sufficient evidence that agents came under armed attack at the scene of an incident, but self-defense is sufficient to satisfy Paragraph 2 of Article 2.

Another possible situation to use the force is prescribed in Paragraph 2 (c) of Article 2 - an action lawfully taken for the purposes of quelling a riot or insurrection The terms "riot" and "insurrection" will have autonomous meanings under the Convention, although neither have been defined as yet. However, when hundreds or thousands of people were throwing projectiles at the security forces, Article 2 has been held to apply in *Stewart v United Kingdom*[20]. In its decision, the Court had regard to the fact that the soldiers were under attack by a violent and hostile crowd and felt threatened, that the use of plastic bullets could be considered appropriate in the circumstances and that the soldiers were trained and experienced in the use of plastic bullets, and the soldier's aim had been disturbed when missiles thrown by the crowd had hit him at the moment of discharge. In *Güleç v Turkey*, however, machine guns were used by Turkish security forces to quell a violent demonstration. The Court underlined that although the situation fell within the scope of Article 2(2)(c), an appropriate balance had to be struck between the aim pursued and the means employed to achieve it. The lack of appropriate riot control equipment which obliged the security forces to have resort to such powerful weapons was unacceptable, particularly since the incident took place in an area where a state of emergency had been declared.

LITHUANIAN CASES IN ECtHR CONCERNING DEPRIVIATION OF RIGHT TO LIFE

Lithuania ratified the European Convention on Human Rights in 1995, since then 188 judgements of the Court finding at least one violation of a certain right have been delivered .

[19] *Andronicou and Constantinou v Cyprus* (Application no. 25052/94) 9 October 1997. http://hudoc.echr.coe.int/-eng#{"respondent":["CYP"],"article":["2","2-1","2-2"],"itemid":["002-7848"]} [accessed 2016-11-20]

[20] *Stewart v United Kingdom* (Application no. 10044/82) 10 July 1984. In that case, the British army accidentally killed a 13 year old boy when a round of plastic bullets was fired into the crowd during a riot in Northern Ireland. A stone, thrown by the crowd, had hit one of the officers and caused him to misfire. file:///-C:/Users/Darbuotojas/Downloads/STEWART%20v.%20THE%20UNITED%20KINGDOM.pdf [accessed 2016-11-20]

There are only 5 judgements against Lithuania concerning violation of the right to life, two of them are concerned with positive obligations of the state to proper investigate the cases of death, one case is concerned with the positive obligation of the state to protect the lives of those being under the custody, i.e. under the vigilance of the state. Two of those cases are dealt with the actions of the police, in particular in both cases the victims were killed by the actions of the police officers using lethal force.

There should be stressed once again, that the tool used to distinguish between a lawful and unlawful deprivation of life by state officials is the principle of proportionality – the use of force must be strictly proportionate to the achievement of the declared aim, the aim itself must be lawful, and the planning and control of the operation must also be such as to minimize any risk to life. Failure to assess risks adequately or provide for a margin of error, and automatic recourse by the authorities to lethal force, preclude ruling an attack on life to be lawful[21]. One Lithuanian case is the clear example of how those tests are to be examined and how the state fails to prove the proportionality of the force used. The case *Juozaitienė and Bikulčius v Lithuania*[22] originated in two applications against the Republic of Lithuania, when applicants

[21] Mathieu, B. *The Right to Life*. Strasbourg: Council of Europe Publishing, 2006, p. 69.

[22] *Juozaitienė and Bikulčius v Lithuania* (Application no. 4860/02) 9 July 2009. On 24 July 1998, after 10.30 p.m., the police received a telephone call from a private individual, informing them about a car driving in the streets of Kaunas in breach of various road-traffic regulations. Officers AM and AR submitted that they had been patrolling in police car when they had heard the information about the Ford Escort on the police radio and had unsuccessfully tried to stop it at around 11 p.m. Officers AM and AR had followed the car, but had soon lost sight of it. AR submitted that, to his knowledge, two passengers and a driver had been in the car. The information about the car being driven in a dangerous manner was transmitted through the control centre to other patrol officers on duty, and two more policemen, NB and EP, in police vehicle were involved in the chase. They were joined by three more policemen, RZ, SG and JM, patrolling in police vehicle. The two police cars had their light and sound signals turned on, and tried to block the Ford Escort, while orders to stop were given over the loudspeakers. However, the car tried to escape, attempting to push the police vehicles off the road. RZ fired two warning shots into the air, but the car only accelerated. A moment later, the driver of the car lost control of the vehicle, hitting the fence of a building. The car was brought to a halt. The policemen left their vehicles and ran towards the car, shouting and gesturing at the driver to surrender. The Ford Escort turned right, hitting officer RZ, and began to drive away. An expert medical examination later confirmed that RZ had suffered slight bodily injuries, including several scratches and bruising to his left calf. When the car hit him, officer RZ fired a shot, apparently damaging its radiator, as he noticed that the cooling liquid was leaking. In addition, immediately after RZ had been hit, NB, fired one shot towards the car's wheels. RZ then fired several more shots towards the car as it escaped. Officer SG likewise fired a number of shots towards the fleeing car. The other policemen did not use their guns. Soon afterwards, the car was forced to stop in another area of Kaunas as a result of the leak of the cooling liquid from the radiator which had been damaged by RZ's shot. Police officers AR and AM, arrested RM while he was trying to flee. In the car, the policemen found the bodies of the applicants' sons, whose deaths were confirmed on the arrival of a medical team at 11.56 p.m. RM was found to have been drunk and not in possession of any of the relevant documents permitting him to drive a car. It was not specified how many shots had been fired by SG, even though it was noted that two of his shots had caused the deaths of the applicants' sons. The national court took account of SG's statements that he had suspected that one of the passengers of the car had a weapon which he thought he had seen through the front window which was wound down, and that he had fired only after having heard a first shot (in fact fired by his colleague RZ), and having no idea where that shot had come from. RM was acquitted of the offence of manslaughter, the national court having noted that the deaths had been caused not by his acts, but by

alleged that their sons had been unjustifiably killed by the police and that there had been no effective investigation into the circumstances of their deaths. Applicants' sons were found dead in a car with single gunshot wounds to their backs. The deaths had occurred as the police tried to chase a Ford Escort driven by a private individual, RM, the applicants' sons being the passengers in the car. RM was not killed during the incident.

The Court is this case stated that it was satisfied that the purpose of the shooting in this case was to apprehend the driver of the car. Accordingly, the action of the police was taken for the purpose of effecting a lawful arrest within the meaning of Article 2 § 2 (b) of the Convention However, the Court examines whether the force used in pursuit of the above aim was "absolutely necessary". It noted the assertion of the domestic authorities that firearms were used against the vehicle and not against the people in it. Therefore, the Court first reviewed the degree of risk posed by the use of firepower against the vehicle resulting in the deprivation of life, in particular as regards the danger posed by the fleeing car and the urgent need to stop it. In such circumstances, by directing fire at the car in a sustained and somewhat erratic manner, the officers were running a very high risk of killing the passengers and should have reasonably foreseen that risk. Such a high degree of risk to life can only be justified if the firepower was used as a measure of last resort intended to avert the very clear and imminent danger posed by the car driver in the event of his being allowed to escape.

The Court stated that it was not clearly established by the domestic authorities that the streets of a medium-size town at around midnight were indeed full of people who could have been exposed to the danger caused by such driving. The possible doubt in this respect was accentuated by the fact that no eyewitnesses to the chase were identified during the investigation. The Court therefore found no obvious indication of danger posed by the escaping driver after he was trying to leave the site of the confrontation with the policemen. The present case by this aspect is distinguished from another cases (in particular, cases of *McCann v UK, and Makaratzis v Greece*[23]), where a high-risk shooting was found to have been justified by the

the "lawful actions of a third person who had used an official weapon." The court sentenced RM to six years' imprisonment for resisting the lawful orders of the police. http://hudoc.echr.coe.int/eng#{"respondent":-["LTU"],"article":["2","21","22"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-93314"]} [accessed 2016-11-20]

[23] *Makaratzis v Greece* (Application no. 50385/99) 20 December 2004. On 13 September 1995 the police tried to stop the applicant, an unarmed civilian, after he had driven through a red traffic light in the centre of Athens. The applicant did not stop, but accelerated. He was pursued by several police officers in cars and on motorcycles and his car collided with several other vehicles. Two drivers were injured. After the applicant had broken through five police roadblocks, the police officers started firing at his car. Eventually, he stopped his car at a petrol station, but locked the doors and refused to get out. The police officers continued firing. The applicant alleges that they were firing at his car; the Government claim that they were firing into the air. One police officer threw a pot at the car

necessity to avert the threat caused by suspected terrorists against the overall background of a prevailing climate of insecurity. Even taking into account the fact that the actions of the driver were potentially dangerous, the Court did not consider that the level of the threat required that he had to be stopped immediately by gunfire.

The Court took account of the fact that the applicants' sons were killed in the course of an unplanned operation which gave rise to developments to which the police were called upon to react without prior preparation (see *Makaratzis v. Greece*, par. 69). Nevertheless, the risk to the lives of the car passengers, considered in the light of the absence of an immediate danger posed by the driver and the ensuing lack of urgency in stopping the car, points to a measure of impulsiveness in the way in which the police officers handled the situation. The Court considered that their actions, in particular the erratic shooting at the car escaping from the scene of the incident at an increasing speed whilst swerving, indicated a lack of caution in the use of firearms, contrary to what should be expected from law-enforcement professionals.

Bearing in mind all circumstances, the Court concluded that the deaths of the applicants' sons resulted from the use of force which was more than absolutely necessary in order to effect a lawful arrest within the meaning of Article 2 of the Convention, therefore there has been a substantive violation of Article 2 of the Convention as regards the death of the applicants' sons.

The Court also indicated that the obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", also requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force. The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure

windscreen. Finally, the applicant was arrested by a police officer who managed to break into the car. The applicant was immediately driven to the hospital, where he remained for nine days. He sustained injury to his right arm, his right foot, his left buttock and the right side of his chest. He claims that he was shot in the sole of his foot while being dragged out of his car. The Government contest this allegation. The applicant's mental health has deteriorated considerably since the accident. Some of the police officers left the scene without revealing their identity and disclosing all necessary information concerning the weapons used. The public prosecutor instituted criminal proceedings against seven officers, which ended in their acquittal. Given that not all the officers involved in the incident had been identified, the criminal court was unable to establish beyond reasonable doubt that the seven accused were the ones who had fired at the applicant. In those circumstances the Court concluded that the authorities had failed to carry out an effective investigation into the incident. The Court concluded that there had accordingly been a violation of Article 2 of the Convention in that respect. http://hudoc.echr.coe.int/eng#-{"languageisocode":["ENG"],"respondent":["GRC"],"article":["2","21","22"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-67820"]} [accessed 2016-11-23]

their accountability for deaths occurring under their responsibility. This investigation should be independent, accessible to the victim's family, carried out with reasonable promptness and expedition, and effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances, or was otherwise unlawful. It should also afford a sufficient element of public scrutiny of the investigation or its results (these statements have been confirmed in various ECtHR cases, such as *McCann v. UK*, *Kaya v. Turkey*[24], *Jordan v. UK*, *Makaratzis v. Greece*, *Huohvanainen v. Finland*[25]).

The investigation's conclusions must be based on a thorough, objective and impartial analysis of all relevant elements. Any deficiency in the investigation which undermines its capability of establishing the circumstances of the case, or the person responsible, is liable to fall foul of the required measure of effectiveness. In this case the Court noted various violations of the above mentioned principles: the investigation into the lawfulness of the shooting was not opened until almost 10 months after the incident, no assessment as to the circumstances and lawfulness of the use of force by officer SG was undertaken[26]. Accordingly, there has been a procedural violation of Article 2 of the Convention in this respect.

[24] Kaya v. Turkey (Application no. 158/1996/777/978) 19 February 1998. http://hudoc.echr.coe.int/eng#{"respondent":["TUR"],"article":["2","21","22"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-58138"]} [accessed 2016-11-20] The applicant's brother was living in Turkey and was killed by the Turkish security forces in unclear and disputed circumstances. The applicant alleged that his brother was deliberately killed by the security forces whereas the Government claimed he was killed in a gun battle between security forces and terrorists. Relying on article 2 of the European Convention, the applicant claimed that his brother had been unlawfully killed by the security forces in circumstances where there was no threat to their lives and that no effective investigation was conducted by the authorities into his brother's death. The Court stated that even if the killing took place in violent armed clashes and under an incidence of fatalities, Article 2 imposes a positive duty on the State to conduct an effective and independent investigation into deaths arising out of clashes involving the security forces, especially when the circumstances are in many respects unclear. The Court held that the authorities failed to carry out that duty and thus violated Article 2.

[25] *Huohvanainen v. Finland* (Application no. 57389/00) 13 March 2007. http://hudoc.echr.coe.int/eng#{"respondent":["FIN"],"article":["2","21","22"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-79771"]} [accessed 2011-11-16] On 1 December 1994 J's home on the island of Ängeslandet in the municipality of Kirkkonummi was surrounded by the police, following an incident the previous day in which J. had threatened a taxi driver with a gun. The police were informed that J. had previously been involved in an armed siege, that he was paranoid and aggressive, that he had been admitted to a psychiatric institution and was considered especially hostile towards the police. The police and a psychologist tried several times to talk to J. on the telephone, without success. The Court saw no reason to doubt that the police officers involved honestly believed that it was necessary to open fire to protect their colleagues who were without protection outside the armoured vehicles. The Court recalled that the use of force could be justified under Article 2 where it was based on an honest belief which was perceived, for good reasons, to be valid at the time but subsequently turned out to be mistaken. To hold otherwise would be to impose an unrealistic burden on the State and its law-enforcement personnel in the execution of their duty, perhaps to the detriment of their lives and the lives of others. The investigation, which started immediately after the siege, was carried out by the National Bureau of Investigation which specialised in the investigation of serious crime. There was no indication that the investigators were not independent from those taking part in the police operation.

[26] The inquiry into the actions of officer SG was conducted by the prosecution, who eventually decided to close the investigation, having found no evidence of any crime in the actions of SG. This decision was subject to judicial

Another notable case against Lithuania was *Leparskienė v. Lithuania*[27]. In this case the applicant complained that a police officer had unlawfully deprived her son of his life and that the State had failed to punish him for it adequately. She further maintained that she had been afforded no adequate legal remedy to obtain redress in respect of her son's death. The applicant appealed, claiming, inter alia, that the police officer T.B. should have been punished for murder. In this respect the applicant stated that T.B.'s acts should have been characterized by indirect

review at one level of jurisdiction. While the authorities formally undertook a number of investigative actions, the Court noted that a number of key elements of the incident were not subjected to an adequate assessment. In particular, the exact timing and duration of the chase remained unclear, as did the situation in the streets of Kaunas at around 12 o' clock on that Friday night, elements which were not only important for shedding overall light on the incident, but were essential for assessing the necessity of using lethal force. The Court further noted that the domestic authorities have concentrated their inquiry on one version only – that presented by the police – without discussing any further hypotheses, such as those raised by the applicants. Most significantly, while the applicants expressed their doubts regarding the distance of the shooting, basing their views on various aspects of the evidence admitted by the domestic authorities, those doubts have not been scrutinised and either confirmed or laid to rest. However, no evidence has been submitted to the Court to show that the account of the police was the only objectively possible version of events. For instance, the Government have not submitted any expert opinions on the correlation between the distance of the shooting and the trajectory of the bullets, or any similar evidence.

[27] *Leparskienė v. Lithuania* (Application no. 4860/02) 9 July 2009. http://hudoc.echr.coe.int/eng#{"respondent":["LTU"],"article":["2","21","22"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-93314"]} [accessed 2016-11-19] On 10 May 2001 police officer T.B. and another policeman were attempting to stop a vehicle being driven by the applicant's fifteen-year old son, Justinas Leparskis. Three other persons were in the car with the applicant's son. As the applicant's son did not stop, T.B. fired two warning shots. He then fired a shot towards the wheels of the car from a distance of approximately forty metres. The applicant's son was severely injured as that shot was misfired. The applicant's son was hospitalised in a coma. On 10 May 2001 a prosecutor instituted a criminal investigation into the incident. T.B. was suspected of exceeding official duties (Article 287 of the Criminal Code as then in force). According to the Government, on the same day an initial on-site inspection was carried out and witnesses were questioned. On 14 May 2001 a forensic medical expert report was ordered to establish how severely J. Leparskis was injured. The report was received on 20 July 2001. On 15 May 2001 police officer T.B. was questioned and his service gun and four bullets were seized; on 16 May the bullet extracted from the head of J. Leparskis was seized from the hospital. On 21 May the authorities ordered the forensic ballistic analysis; it was concluded on 19 September 2001 and established that the bullet extracted from the head of J. Leparskis could have been fired from T.B.'s service gun. On 27 July 2001 the applicant's son died without coming out of the coma. According to the Government, on 27 July 2001 a supplementary forensic expert report was ordered. The report was received the next day. It concluded that J. Leparskis had died from complications caused by the gunshot wound to his head. On an unspecified date criminal proceedings for exceeding official duties and manslaughter were brought against T.B. On 27 September 2001 the prosecutor recognised the applicant as a victim in the criminal case. On 14 March 2003 the Pakruojis District Court found T.B. guilty of manslaughter and exceeding official duties. On 4 June 2003 the Šiauliai Regional Court reclassified the charge of exceeding official duties to that of abuse of, finding T.B. guilty on the latter count. The conviction for manslaughter remained unchanged. The court imposed a suspended sentence of two years' imprisonment on T.B. The court upheld the lower court's conclusion that the applicant had a right to satisfaction of her claim in respect of non-pecuniary damage, but the amount of the award was to be decided in separate civil proceedings. On 28 October 2003 the Supreme Court quashed the above judgment, returning the case for a fresh examination at appeal instance. The Supreme Court ruled in particular that the lower courts had failed to answer the applicant's arguments under Article 6 of the Convention about the effectiveness of the investigation into the death in view of the allegedly mild sentence imposed on T.B. On 12 January 2004 the Šiauliai Regional Court again found T.B. guilty of manslaughter and abuse of office. He was given a sentence of two years and six months' imprisonment. On 1 June 2004 the Supreme Court dismissed the applicant's cassation appeal. The court ruled that the proceedings had been fair and impartial in compliance with the requirements of Article 6 of the Convention in that the applicant had been provided with all procedural guarantees.

intent rather than recklessness, as he had executed the criminal acts in a dangerous manner, without any effort on his part to protect the lives of other persons.

The Court decided on whether and to what extent the national courts, in reaching their conclusion, may be deemed to have submitted the case to the careful scrutiny required by Article 2 of the Convention, so that the deterrent effect of the judicial system in place and the significance of the role it is required to play in preventing violations of the right to life are not undermined. The Court also repeated that an effective official investigation when individuals have been killed as a result of the use of force means that this investigation should be independent, accessible to the victim's family, carried out with reasonable promptness and expedition, and effective in the sense that it is capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances, or was otherwise unlawful. In the present case the prosecutor on his own initiative started an inquiry into the circumstances of the incident on the very day of the shooting. What is more, on the same and the following days many other investigative actions were carried out. The Court also noted that the prosecutor recognized the applicant as the victim of the crime, thus conferring upon her the status of a participant in the criminal proceedings and granting her access to the investigation and the trial. Moreover, it could be deemed that the official investigation was proper and effective, since it allowed the establishment both of the cause of death of the applicant's son and the identity of the person responsible for it. Against this background the Court observed that the domestic courts had sufficient regard to the extremely serious consequences of the incident and gave substantial reasoning as to why they had characterized the act committed by the officer as manslaughter as well as specified grounds for imposing the medium term of imprisonment allowed by law and for opting to suspend it. Taking into account all of the above the Court concludes that there has been no violation of Article 2 of the Convention in its procedural limb. Therefore summarizing it could be stated that it is established that Article 2 requires investigations to begin promptly and to proceed with reasonable expedition, independently of whether any delay actually impacted on the effectiveness of the investigation. This is because a prompt investigation of the use of lethal force is essential in maintaining public confidence in the state's judicial system.

CONCLUSIONS

The requirement of the Convention to protect one's life imposes on the State negative obligation not to deprive anyone of his/her life save in the limited circumstances prescribed by

Article 2 (2), and positive obligation to take appropriate measures to safeguard the lives of those within its jurisdiction. The European Court of Human Rights formed practice that requires accountability of the agents of the State for their use of lethal force. Their actions, therefore, must be subjected to some form of independent and public scrutiny capable of determining whether the force used was or was not justified in a particular set of circumstances. It can therefore be elicited from the Court's case-law that in applying the test of the necessity of the use of lethal force the principal question to be addressed is whether the person had an honest and genuine belief that the use of force was necessary. In solving this question, it should be considered whether the belief was subjectively reasonable, having full regard to the circumstances that pertained at the relevant time. If the belief was not subjectively reasonable (that is, it was not based on subjective good reasons), it is likely that it will not be accepted as honest and genuine. This approach may allow states to escape responsibility, even where their agents use defensive force with negligence or gross negligence, believing in an attack without any good reason. The conclusion based on case-law practice, could be made, that appropriate legal and administrative framework which defines the limited circumstances in which law enforcement officials may use force and firearms, in light of the relevant international standards, must be adopted in all states. In particular the national legal framework must make recourse to firearms dependent on careful assessment of the situation; and the national law regulating policing operations must secure a system of adequate and effective safeguards against arbitrariness, abuse of force and avoidable accident. Bearing in mind state's responsibility to carry an independent investigation, both the individual responsibility of must be considered in depth while the investigation process. Those principles are confirmed in various cases of European Court of Human Rights, as well as in a few Lithuanian cases in respect of deprivation of right to life.

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POLICIJOS NAUDOJAMA MIRTINA JĖGA: LIETUVUŠKOS BYLOS EŽTT

Aurelija Pūraitė*
Mykolas Romeris University

S a n t r a u k a

Demokratinėje visuomenėje policijos vaidmuo yra esminis, jei žmogaus teisių apsaugos principas yra laikoma esminiu valstybės veiklos teisėtumo pagrindu. Žmogaus teisių apsaugos doktrina patiria didžiulių transformacijų globalizacijos, tarptautinio terorizmo, nekonvencinių ir civilinių karų, pabėgėlių krizės ir kitų socialinių bei politinių iššūkių kontekste. Dėl represinio policijos veiklos pobūdžio, kartais dėl filosofinio požiūrio į žmogaus teises (ypač susijusias su teise į gyvybę, teisę nebūti kankinamam ir nepatirti kitokio žeminančio elgesio, apsaugos nuo neteisėto sulaikymo teisę) bei policijos vaidmenį visuomenėje stokos, nuolat susiduriama su neteisėta ir netinkama policijos veiksmų praktika (naudojant perteklinę jėgą, diksriminacijos apraiškos, ir pan.). Europos žmogaus teisių ir pagrindinių laisvių apsaugos konvencijos (toliau – ir Konvencijos) 2 straipsnyje įtvirtinta teisė į gyvybę yra viena iš fundametaliausių žmogaus teisių, kuri kartu su teise nebūti kankinamam ir nepatirti žeminančio elgesio indikuoja pamatines demokrtainės visuomenės vertybes, šios teisės gynimo priemonės, metodai, praktika turi atspindėti jos reikšmę. Šiame straipsnyje analizuojami žmogaus teisės į gyvybę pažeidimai, susiję su policijos naudojama jėga. Šio straipsnio tikslas yra atskleisti Konvencijos 2 straipsnyje numatytos teisės sampratą, apimtį, ribas, aptarti galimas aplinkybes, kurioms esant valstybės pareigūnai gali teisėtai riboti šios teisės įgyvendinimą naudodami mirtiną jėgą. Valstybė turi pareigą vykdyti efektyvų bylų tyrimą, o tie atvejai, kai gyvybę atima pareigūnai, turi būti kruopščiai nagrinėjami nepriklausomų ir nešališkų instiucijų. Europos žmogaus teisių teismas savo gausioje praktikoje įtvirtino, jog neteisėtas bus jėgos panaudojimas, kuris nėra didesnis nei neišvengiamai būtina (2 straipsnio 2 punktas). Ši Konvencijos 2 straipsnio nuostata nenustato aplinkybių, kurioms susidarius gyvybės atėmimas tampa teisėtu, jame tik apibūdinami atvejai, kai panaudojus jėgą gyvybės atėmimas yra neplanuota pasekmė. Bet koks jėgos panaudojimas turi būti „neišvengiamai būtinas", o tai suponuoja jėgos panaudojimo proporcingumo siekiamam tikslui reikalavimą. Straipnyje analizuojama negausi bylų prieš Lietuvą praktika, akcentuojami pažeidimai, dėl kurių nustatyti teisės į gyvybę pažeidimai.

Pagrindinės sąvokos: žmogaus teisės, teisė į gyvybę, mirtina jėga, Europos žmogaus teisių teismas.

Aurelija Pūraitė*, daktarė, Mykolo Romerio universiteto Viešojo saugumo fakulteto Teisės katedros docentė. Mokslinių tyrimų kryptys: administracinė teisė, žmogaus teisės, tarptautinė teisė.
Aurelija Pūraitė*, Ph, Mykolas Romeris University, Faculty of Public security, Department of Law, accossiated professor. Research interests: administrative law, international law, human rights.