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Proving discriminatory violence at the European Court of Human Rights

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Prominent European institutions and organisations frequently report on the incidence of discriminatory violence, motivated on such grounds as colour, association with a national minority, religion or sexual orientation, in various European States. This thesis explores the engagement of a fundamental European institution with the phenomenon of discriminatory violence, namely, the European Court of Human Rights. The main purpose of this thesis is to determine whether the evidentiary framework deployed by the European Court of Human Rights is adequate in discriminatory violence cases, and to offer suggestions for improvement where it is not.

To reach that purpose, this study focuses on three evidentiary issues in cases of discriminatory violence. Firstly, it explores whether the Court's application of the standard of proof 'beyond reasonable doubt' forms an obstacle in establishing the occurrence of discriminatory violence. Secondly, it explores the circumstances in which the burden of proof may shift from the applicant to the respondent State. Thirdly, the study looks at the types of evidentiary materials that may be used by the Court in order to establish discriminatory violence.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School. This study is part of the Law School's research programme 'Effective Protection of Fundamental Rights in a Pluralist World'.

Proving Discriminatory Violence at the European Court of Human Rights

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