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Measures Aimed at Efficient Fighting against Discrimination by the State

The article explores the measures to be implemented by the state in order to effectively combat discrimination. In particular, both preventive and responsive dimensions of anti-discrimination activities are analyzed. In the context of prevention, the need of modification of the discriminatory regulations is emphasized, though the request of certain international conventions to replace the discriminatory traditions and customary practice is criticized.

In terms of positive measures, wide application of the principle of reasonable accommodation is recommended, while the temporary special measures aimed at accelerating de facto equality is questioned.

Effective anti-discrimination legislative and institutional mechanisms are also explored in the article.

Key words: *discrimination, effectively combating discrimination, reasonable accommodation, De facto equality, anti-discrimination legislative and institutional mechanisms.*

1. Introduction

Combating discrimination is necessary pre-condition to ensure the right to equality and the state shall take all measures, required for guaranteeing human rights at national level. According to the Human Rights Law, state has a negative obligation not to violate human right as well as a positive obligation to take the relevant measures for ensuring rights.[1] The positive obligation is divided into two parts – the state shall protect people against violation of their rights by third parties *(duty to protect)* and create conditions, required for ensuring human rights *(duty to fulfil)*.[2] The *duty to protect* requires from the state to take efficient preventive measures, and in the case of violation – its timely response by imposing the relevant responsibility on the offender. The existence of the relevant mechanism for reparation is also necessary.[3] As for creation of necessary conditions for ensuring rights, in this case, the existence of the system, mechanisms, infrastructure and similar circumstances, required for realization of right, is necessary.[4]

Hence, it could be said that for the purpose of ensuring the right to equality and consequently, fighting against discrimination, the system and mechanisms, efficiently ensuring prevention, detec-

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1 *Burduli I., Gotsiridze E., Erkvania T. et al;* Commentaries on the Constitution of Georgia, Chapter Two, Citizenship of Georgia, Fundamental Human Rights and Freedoms, Tbilisi, 2013, 58.

2 *Schutter O. D., Eide A., Khalfan A. et al*, Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, Human Rights Quarterly, 2012, 34(4), 1090.

3 Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, A/HRC/17/31, 21 March 2011, 7.

4 *Green M.*, What We Talk About When We Talk About Indicators: Current Approaches to Human Rights Measurement, Human Rights Quarterly, 2001, 23(4), 1072.

tion of discrimination, imposition of the relevant responsibility and reparation of the violated right shall necessarily exist in the state.

2. Measures for Prevention of Discrimination

As noted above, fight against discrimination and its elimination does not entail only efficient response to the facts of discrimination, but it is an ongoing process, the key component of which is maximum prevention of discrimination.[5] The latter primarily requires raising of the public awareness,[6] which basically, shall be implemented through educational system – encouraging tolerance and eliminating stereotypes causing discrimination.[7] Furthermore, it is necessary to conduct series of trainings and informational meetings, especially for persons, serving public functions.[8] Media training is also important to eliminate discriminative elements in the course of spreading information.[9]

Other measures ofprevention include modification/ abolition of discriminative norms[10] and implementation of positive measures for ensuring equality,[11] which is pertinent to explore separately below.

2.1. Modification of Discriminative Regulations

The obligation to modify the discriminative laws, norms and regulations is directly derived from the UN Anti-discrimination Conventions[12], which is quite logical, as discriminative regulations and norms form the basis for many discriminative actions, implemented on their basis.

In the same context, the requirement of conventions, that the states shall modify discriminative customs shall be underscored.[13] Taking into account the universality of human rights, obligation to modify customs, might be accaptable. However, fulfilment of this obligation is related to several problems: 1) state does not form customs and it begs a question – how can it modify them; 2) custom or tradition is the expression of internal faith of human, playing significant role in human development.

In this respect, the approach, voiced at the Vienna World Conference of Human Rights is important, according to which human rights are universal and shall be ensured for everybody, although, historical, cultural and religious peculiarities shall be taken into account in the process of their im-

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5 ECRI General Policy Recommendation №7 on National Legislation to Combat Racism and Racial Discrimination, 13 December 2002, §8.

6 Explanatory Memorandum to ECRI general policy recommendation №7 on national legislation to combat racism and racial discrimination, §27.

7 International Convention on the Elimination of All Forms of Racial Discrimination, art. 7.

8 Explanatory Memorandum to ECRI general policy recommendation №7 on national legislation to combat racism and racial discrimination, §54.

9 Convention on the Rights of Persons with Disabilities, art. 8(2)(c).

10 International Convention on the Elimination of All Forms of Racial Discrimination, art. 2(1)(c).

11 UN Human Rights Committee, General Comment №18: Non-discrimination, §10.

12 See International Convention on the Elimination of All Forms of Racial Discrimination, art. 2(1)(c); Convention on the Elimination of All Forms of Discrimination against Women, art. 2(f); Convention on the Rights of Persons with Disabilities, art. 4(1)(b).

13 See Convention on the Elimination of All Forms of Discrimination against Women, art. 2(f); Convention on the Rights of Persons with Disabilities, art. 4(1)(b).

plementation.[14] Thus, the World Conference has recognized cultural diversity and demanded to respect it while implementing human rights. This approach gives no answer to the question how the customs, contradicting human rights, shall be respected,[15] though recognizes, that universality of human rights does not imply unification of traditions, customs and culture. Therefore, human rights and not customs shall be universal, meaning that the state shall not modify customs but ensure protection of human rights in the environment of any custom in legal terms. Custom may contradict the rights to equality, but the state shall not attempt to modify it, as the custom is a social rather than legal phenomenon. The custom is formed by the people, not a state, hencethe former shall modify it. Tradition is an important phenomenon for personal development of an individual and when a person voluntarily follows it, state should not interfere with it, even if it contradicts the right to equality. Positive obligation of the state to protect the right to equality shall be manifested through the existence of the relevant legal and institutional framework, enabling a person to protect his/her right, when custom controverts it.

Following the foregoing, a state shall be obliged to modify the norms, regulations and provisions, having legal nature and should not interfere with the process of modification of cultural norms or customs.

2.2. Positive Measures of a State Aimed at Ensuring Equality

Raising awareness and modification of discriminative norms is a type of positive measures to be implemented by a state. Nevertheless, special attention should be paid to the implementation of the measures, without which the equality could not be ensured. According to the right to equality, a state is obliged not to treat the persons in significantly different situations equally. On the contrary, in order to ensure the right to equality, there must be a difference in the treatment of persons in relevantly similar situations.[16] To further elaborate this standard, it could be said that the state shall consider all individual needs in order to avoid violation of their right to equality. This approach, known as a specific principle of reasonable accommodation, was reflected in the UN Convention on the Rights of Persons with Disabilities.[17] The principle aims at ensuring to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.[18] In fact, this principle is fitted to the person's individual needs and primarily used in regard to persons with disabilities, although it is more widely applied.[19] Thus, in any case, when a person, due to disability or any other objective circumstance, has individual need, the state shall take into account it in the course of ensuring his/her rights.

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[14] Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights in Vienna (25 June 1993), §5.

[15] *Charlesworth H., Chinkin C.*, The Boundaries of International Law: A Feminist Analysis, Manchester University Press, 2000, 228.

[16] *Thilimmenos v. Greece*, App. no. 34369/97, ECtHR, 6 April 2000, §44.

[17] Convention on the Rights of Persons with Disabilities, art. 2.

[18] Ibid.

[19] *Schutter O.D.*, International Human Rights Law: Cases, Material, Commentary (Cambridge University Press, 2010), 644.

Another category of positive measures is implementation temporary special measures aimed at accelerating de facto equality. This principle is envisaged by the Convention on Elimination of All Forms of Racial Discrimination,[20] as well as Convention on Elimination of All Forms of Discrimination against Women.[21] The principle deems differentniated treatment to persons acceptable if it serves to elimination of factual inequality and this treatment discontinues immediately upon achievement of the objective.[22] It is considered that such action, to some extent, serves to improvement of past forms of discrimination and thus, is justified.[23] However, its implementation might be arbitrary, as the elements are not sufficiently defined. Primarily, it is quite risky to set a target of achievement of de facto equality, as it is unclear when such equality is achieved. The essence of the right to equality is in granting equal opportunities to people,[24] which automatically leads to factual inequality. Consequently, de facto equality in all spheres is either impossible to achieve, or can be achieved only artificially by granting privileges to certain groups, i.e. establishing of inequal conditions. Anyway, it is quite dangerous category, which, by itself, creates the threat of discrimination.

It should also be exmphasized that implementation of temporary special measures is not the conventional obligation, imposed on the state. Rather, the conventions require that different treatment, aimed at accelerating de facto equality, shall not be considered discrimination.[25] Though, creation of such special category is absolutely redundent in this context since different treatment can always be justified on the basis of objective and reasonable grounds, i.e. when it serves to legitimate purpose and the means used are necessary and proportionate.[26] This general formula is sufficiently flexible not to considere all types of different treatment as discrimination and there is no needdesigning to design a new, special category. Besides, even though this category is deemed to be temporary, the temporariness depends on achievement of the pursued objective, which, on its part, is quite indeterminate and creates the risk that the special measures will be "temporary" for indefinite period of time.

3. Efficient Response to the Facts of Discrimination by a State

Prevention is the most important component for elimination of discrimination. However, even in the case of well arranged preventive measures, it is impossible to avoid all facts of discrimination. Consequently, efficient response of the state to each case of discrimination is necessary. Therefore, it is essential to exist the relevant legislative and institutional mechanisms in the state.[27] Hence, it is appropriate to analyse – what type of legal and institutional framework shall exist in order to efficiently fight against discriminationat national level.

[20] International Convention on the Elimination of All Forms of Racial Discrimination, art. 1(4).
[21] Convention on the Elimination of All Forms of Discrimination against Women, art. 4(1).
[22] CEDAW, General recommendation №25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, §15.
[23] Ibid.
[24] *Khubua G.,* Theory of Law, Tbilisi, 2004, 76.
[25] Convention on the Elimination of All Forms of Discrimination against Women, art. 4(1).
[26] *D.H. Others v. the Czech Republic*, App. no. 57325/00 ECtHR [GC], 13 November 2007, §184.
[27] UN Human Rights Committee, General Comment №18: Non-discrimination, §9.

3.1. Efficient Anti-discriminative Legislation

In order to establish legislative framework for efficient fighting against discrimination, national legislation shall reflect the standards, set forth in international and regional instruments. Primarily, legislation shall provide the definition of discrimination and its types, according to which it will be possible to classify specific case, as discrimination.

It has to be underscored, that the definition, provided in UN conventions[28] differs from the definitions, proposed by the European Court of Human Rights,[29] which, in its turn, is based on the EU anti-discrimination directives.[30] Nevertheless, the interpretation of the UN conventions does not contradict the definition, determined by the latter, and, in general, the following elements of discrimination shall be outlined in the light of international and regional standards: 1) action – unequal treatment; 2) comparator – in comparison with whom unequal treatment is determined; 3) motive of action – existence of grounds, based on which the person was treated differently; 4) the aim or result of action – putting a person into disadvantaged situation; 5) absence of objective and reasonable justification of unequal treatment. Consequently, discrimination in national legislation shall be defined so that all the above-mentioned elements are reflected.

Besides, in the process of defining discrimination at national level, special attention should be paid to two factors, in regard to which there is no clarity in international and regional acts: 1) should dissimilar treatment without any ground be qualified as discrimination? 2) should discrimination be limited to unequal treatment only in the course of using rights, envisaged by the law? In regard to the grounds, it should be emphasized, that the main motive of discrimination, in majority of cases, is existence of these grounds, and for this very reason, international and regional conventions directly stress that enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground. However, equality is also violated when the ground cannot be identified, but different treatment occurs in arbitrary manner. For this reason, it would be appropriate not to make discriminating ground obligatory pre-condition for qualification of action as discrimination. Nonetheless, as long as conventions directly focus on discriminating rgounds and the practice of Strasbourg Court is not homogenous, national legislation, which considers the existence of discriminating ground as compulsory element, cannot be regarded as inefficient. In any case, the list of grounds shall not be exhaustive in order to secure the protection of any ground.

As for the scope of anti-discrimination legislation, the state shall protect a person from discrimination from any third party. However, in order to prevent the state interference with private

[28] According to the UN Human Rights Committee, Convention on Elimination of all Forms of Racial Discrimination and Convention on Elimination of all Forms of Discrimination against Women, discrimination is any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

[29] According to the definition, established by the European Court of Human Rights, a difference of treatment is discriminatory if it "has no objective and reasonable justification", that is, if it does not pursue a "legitimate aim" or if there is not a "reasonable relationship of proportionality between the means employed and the aim sought to be realised".

[30] See Racial Equality Directive (Council Directive 2000/43/EC), art. 2; Employment Equality Directive, Council Directive 2000/78/EC, art. 2.

sector, discrimination should be prohibited in the relations between private persons, linked to publicly offered services or goods.[31] Thus, efficient legislation should impose responsibility not only on public entities, but on private persons as well, if their activities are beyond pure private relations.

Efficient legislation, naturally, should pay particular attention to procedural norms, envisaging practical implementation of anti-discrimination norms. Consequently, national legislation should envisage effective mechanisms of prevention, identification and responding to discrimination. Systemized recommendations on this issue have been developed by the European Commission against Racism and Intolerance (hereinafter – ECRI),[32] which should be analysed for generalized conclusions.

According to ECRI recommendations, national legislation should enshrine the principle of equal treatment and the obligation of the state to protect a person from discrimination into the Constitution. The Constitution should further, provide the exceptions to the principle of equal treatment.[33] In other words, the constitutional norm will not be efficient if the exceptions of different treatment are envisaged by the law, as constitutionality of other legislative acts cannot be assessed on the basis of the norms, enshrined in the law of the same hirarchy. Thus, in order to avoid any kind of collision of norms, discrimination elements should be determined in the Constitution. At least, it should be possible to construe from the text of the Constitution, that the list of discriminating grounds are not exhaustive and unequal treatment can be justified only if it is objective and reasonable. Certaunlythe constitutional norm is subject to interpretation by the Constitutional Courtbut antidiscrimination norm would be efficient if it requires as little interpretation as possible.

Efficient national legislation should fully consider the needs of the victims of discrimination. This requires complex approach and thus, existence of the relevant criminal, administrative and civil legislation.[34] With respect to private law it should be noted that, in the opinion of the Commission, discrimination shall be prohibited not only in public, but also in private sector[35] and, it is necessary to modify discriminatory norms, *inter alia*, in private regulations.[36] As to the administrative law, the Commission demands the existence of judicial and/or administrative procedures, which will be easily accessible for all victims of discrimination and ensure imposition of adequate sanction on the person, who has committed discrimination, *inter alia*, in the form of compensation of material or non-pecuniary damages.[37]

As for criminal responsibility, ECRI recommends liability for grave forms of discrimination like genocide, instigation of racial animosity, etc.[38] It is further suggested that the crime, committed on the basis of discriminatory motivation, be considered as aggravating circumstance,[39] and the

[31] Developing Anti-Discrimination Law in Europe, Prepared by Isabelle Chopin and Catharina Germaine-Sahl for the European Network of Legal Experts in the Non-discrimination Field, October 2013, 65.
[32] ECRI General Policy Recommendation №7 on National Legislation to Combat Racism and Racial Discrimination, 13 December 2002.
[33] Ibid, §2.
[34] Explanatory Memorandum to ECRI general policy recommendation №7 Introduction on national legislation to combat racism and racial discrimination, §3.
[35] Ibid, §7.
[36] Ibid, §14.
[37] Ibid, §12-13.
[38] Ibid, §18-19.
[39] Ibid, §21.

sanction is proportionate having dissuasive effect.[40] These requirements are absolutely logical, although, requirement to impose criminal responsibility for discrimination, committed in the course of implementation of public function, will create practical problems. In fact, in a large majority of cases discrimination occurs during implementation of public function and it is not clear how criminal responsibility should be differed from administrative responsibility, which should also be effective, proportionate and dissuasive.[41] In this respect ECRI further explains, that various types of responsibility shall complement each other and criminal responsibility has stronger deterrent effect.[42] Consequently, the preconditions of imposition of administrative and criminal responsibility for discrimination should be unambiguously distingished.

According to the foregoing, it could be said that efficient anti-discrimination legislation should be oriented to the interests of the victims and provide them with efficient means of reparation of the violated right. Consequently, it is necessary to explore the means of reparation of the rights to equality.

4. Efficient Means of Reparation of Violated Right to Equality

Legal remedy of the violated rights is the intrinsic feature of the fundamental human rights, translating the legal provisions into practice.[43] In other words, the existence of the human right in itself implies possibility of its legal protection, and vice versa, if reparation of the violated rights is impossible, human right does not exist in reality.[44] For this very reason, all basic international[45] and regional human rights instruments explicitely provide for the legal remedy.[46] It is considered, that for reparation of the violated right, the state shall apply effective, proportionate and dissuasive measures.[47] In this respect, there is no explanation of authoritative body on what is meant under each term. Although, according to doctrine, the measures, which really ensure to achieve the aims pursued, are considered efficient. The gravity and nature of the committed action has to be considered in the course of assessing proportionality, and dissuasive effect is inherent to the sanction, which is sufficiently stringent to exclude the possibility of committing the same action in the future.[48] Furthermore, the reparation of the violated right to be effective, proportionate and dissuasive, all the above noted reparation measures shall be applied in multifaceted manner under civil, administrative or criminal law.[49]

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[40] Ibid, §23.
[41] Ibid, §12.
[42] Ibid, §3.
[43] *Tomuschat C.*, Human Rights: Between Idealism and Realism, 2nd ed., Oxford University Press, 2008, 5.
[44] *Steiner H.J., Alston P., Goodman R.*, International Human Rights in Context: Law, Politics and Morals, 3rd ed., Oxford: OUP, 2007, 263.
[45] See, for example, Article 8 of Universal Declaration on Human Rights; also, para. 2 and sub-paragraph "b" of para. 3 of the Article 2 of International Covenant on Civil and Political Rights.
[46] Article 13 of the European Convention on Human Rights; Article 2 of the American Convention on Human Rights; Article 1 of the African Charter on Human and Peoples' Rights.
[47] Remedies and Sanctions in EC non-discrimination law: Effective, proportionate and dissuasive national sanctions and remedies, with particular reference to upper limits on compensation to victims of discrimination, European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities, June 2005, 32.
[48] Ibid, 10.
[49] Ibid, 5.

5. The Need of Special Body for Combating Discrimination

In order to make the fight against discrimination really efficient, in parallel to the legal framework, the relevant institutional mechanisms shall exist ensuring practical implementation of anti-discrimination provisions and taking all required measures, from prevention to identification of discrimination facts and reparation of the violated rights. In accordance with international anti-discrimination instruments, efficient institutional framework should include the existence of judicial and administrative mechanisms, through which fight against discrimination and reparation of the violated rights will be ensured.[50]

Court, certainly, is the most important mechanism to protect rights, but its mandate is strictly defined by the law and is limited with its functions. On the basis of the relevant legislative framework, reparation of the violated rights through courts is possible, however, as already underlined, combating discrimination requires much wider and complex approach than just responding to the identified facts of discrimination. For this reason, to make the fight against discrimination efficient, majority of states establish specialized body, responsible for protection of equality.[51] The need of establishment of such body within the Council of Europe is determined by the *General Policy Recommendation* №2 of the European Commission against Racism and Intolerance.[52] For the EU member states, establishment of specialized body is additionally provided by special directives.[53]

The equality body should have sufficient functions to fulfil its mandate and ensure efficient protection of persons against discrimination. Assessing anti-discrimination laws of individual states, the OSCE Office for Democratic Institutions and Human Rights *(OSCE/ODIHR)* repeatedly states its position, that the mandate of specialized body for protection of equality should cover public as well as private spheres.[54] Besides, such body will not be considered efficient, if it does not have the possibility to impose a fine, secure the reparation of damage or take other efficient measures for elimination of the results of discrimination.[55] Nevertheless, imposition of fines and sanctions shall be limited only to administrative responsibility.[56]

The European Commission against Racism and Intolerance lists the number of functions the specialized equality body for combatting discrimination should be equipped, with[57] and the following are particularly stressed: assistance to the victims of discrimination, examination of cases, sub-

[50] *Kudla v. Poland*, App. no. 30210/96, (ECtHR, 26 October 2000), §157; 15 of General Comment №34 dated 2004 of the UN Human Rights Committee.

[51] <http://www.coe.int/t/dghl/monitoring/ecri/library/links_en.asp#bodies>, [26.05.2014].

[52] <http://www.coe.int/t/dghl/monitoring/ecri/activities/gpr/en/recommendation_n2/Rec02en.pdf>, [26.05.2014].

[53] See Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, 29 June 2000, art. 13; Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services, 13 December 2004.

[54] OSCE/ODIHR Comments on the Draft Law on Prevention and Protection against Discrimination of the Former Yugoslav Republic of Macedonia, 13 October 2009, §44.

[55] Ibid, §48; OSCE/ODIHR Opinion on the Draft Law on Preventing and Combating Discrimination of the Republic of Moldova, 29 October 2010, §70.

[56] Ibid, §73.

[57] ECRI General policy Recommendation №2 on Specialised Bodies to Combat Racism, Xenophobia, Antisemitism and Intolerance at National Level, 13 June 1997, Principle 3.

mission of proposals aimed at refining legislative norms, raising awareness, analyzing anti-discrimination situation and preparation of the relevant reports.[58]

This being so, it could be said that institutional mechanisms of fighting against discrimination include the existence of judicial and administrative institutions, which, in unity, shall ensure implementation of all anti-discrimination measures in the form of prevention, identification of the facts of discrimination and elimination of its results.

6. Conclusion

In accordance with the goals purused, the measures to be taken by the state for efficiently combating discrimination were analysed. The research leads to conclude that the fight against discrimination shall be permanent and complex process, including prevention, identification of the facts of discrimination and elimination of its results. However, there is no sufficient clarity in regard to these issues.

First of all, the requirement of the UN anti-discrimination conventions, that the states shall modify discriminative customs, has to be criticized. Imposition of such obligation on states is not reasonable, since a state does not create customs and it begs a question – how can customs be modified by states. Besides, Customs and tradition is the expression of faith, playing significant role in development of the human and it would not be justified for the state to have the obligation of its modification. Therefore, the state should not have the obligation of modification of discriminative customs, but instead legal framework should exist, where a person would be able to protect his/her right to equality, violated on the basis of customs and traditions.

The study has made it clear that the temporary special measures for elimination of *de facto* inequality is problematic. Primarily, it is precarious to aim *de facto* equality, as it is unclear when such equality is achieved and the temporary measure may last for indefinite period of time. Moreover, the very essence of the right to equality lies in granting equal opportunities to people, which automatically results in factual inequality. Consequently, *de facto* equality in all spheres either can never be achieved or can be achieved artificially through granting privileges to individual group, i.e. creating of inequal conditions. For this reason, it is a very dangerous category, creating the risk of discrimination by itself and practical implementation of this principle is not expedient.

In terms of identification and response to the facts of discrimination, the research outlined the need of efficient legal and institutional mechanisms. Anti-discrimination norms reflected in in civil, administrative and criminal legislation should be complementary so that unclear overlaps are avoided. Legislation should adequately set forth the elements of discrimination and its types and secure the legal remedy for the violated right. The latter, in its turn, should ensure effective and proportionate reparation of the negative results caused to the victim and envisage the relevant sanctions having deterent effect.

[58] ECRI General Policy Recommendation №7 on National Legislation to Combat Racism and Racial Discrimination, 13 December 2002.

Effective implementation of anti-discrimination norms necessitates the existence of the relevant institutional mechanisms and it is reasonable to establish special equality body responsible for implementation of complex measures to combat discrimination, in addition to the court. The mandate of such body should include the elements of prevention, identification of discrimination and elimination of its results in public as well as in private sphere.

According to the all aforesaid, it could be concluded that although discrimination is prohibited since the moment of origination of human rights, it still remains quite a complex legal category, identification of which will be related to difficulties in each particular case. Efficient fight against discrimination requires homogenous understanding of legal nature of this phenomenon, adequately reflected in legislation, and existence of the necessary institutional mechanisms.