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Svitlana KARVATSKA
Ivan TORONCHUK

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THE RIGHT TO NON-DISCRIMINATION: INTERPRETIVE PRACTICE OF THE ECtHR

Svitlana KARVATSKA[1]
Ivan TORONCHUK[2]

Abstract

The article conducts a legal analysis of the case-law of the European Court of Human Rights on the protection of the right to non-discrimination, which is a fundamental and general principle concerning human rights protection. During the period of functioning of the ECtHR, the Court has processed a huge amount of cases concerning violation of the right to equality and the inextricably linked principle of non-discrimination under Art. 14 and Art. 1 of Protocol № 12 of the ECHR. The evolution of the interpretation of the ECtHR shows the transformation of approaches to the interpretation of the right to non-discrimination. The court gradually began to expand the range of possible violations, from outright prohibition to the detection and the statement of indirect discrimination, and its decisions contributed to the normative formulations of the principle of non-discrimination in national systems and its gradual transformation from a purely declarative to a coherent effective mechanism of protection of discrimination victims and a mechanism of the approval of democracy, human dignity. The rule of law forms the central principle of interpretation of the Convention. A consensual investigation allows the ECHR to tie its decisions to the pace of change in national law, recognizing the political sovereignty of the respondent States and, at the same time, legitimizing its own decisions against them, adhering to the principles of a democratic state governed by the rule of law. The purpose of this article is to analyze peculiarities of the ECtHR's interpretive practice in cases concerning the right to non-discrimination.

Keywords:

Human rights; non-discrimination; ECHR; methodology of ECtHR`s interpretation ECtHR's practice.

JEL Classification: K33

[1] LL.D., Associate Professor, Department of European Law and Comparative Law Studies, Yuriy Fedkovych Chernivtsi National University, Ukraine.
[2] Ph.D., Associate Professor, Department of European Law and Comparative Law Studies, Yuriy Fedkovych Chernivtsi National University, Ukraine, i.toronchuk@chnu.edu.ua>

I. Introduction

The principle of equality, as one of the basic human rights, enshrined in Art. 1 of the Universal Declaration of Human Rights in 1948 and specified in Art. 14 of the European Convention on Human Rights (ECHR, the Convention) (Council of Europe, 1950) as a «prohibition of discrimination», during the second half of the twentieth century and at the beginning of the XXI century underwent significant development in understanding its essence and practice of application and was transformed into Art. 1 of Protocol № 12 to the Convention in the «General Prohibition of Discrimination». Even though there are views that the European Court of Human Rights (ECtHR, the Court) avoids an excessively deep interpretation of Art. 14 in order to allow for some «maneuvering», in fact, thanks to an interpretive practice of the ECtHR, this principle was formed as a principle of non-discrimination.

Article 14 of the Convention mentions a number of protected features. A protected feature is an individual characteristic that should not be taken into account for the purposes of excellent treatment or use of a particular good. At the same time, the list of «protected grounds» in Art. 14 The ECHR is inexhaustible.

Article 14 of the ECHR prohibits not all differences in treatment, but only differences based on certain, objective or personal characteristics or «grounds» by which individuals or groups of persons differ from others. Article 14 of the ECHR lists the specific grounds constituting such «grounds», including particularly gender, race, and property. However, the list contained in this article is indicative and non-exhaustive. The evidence to its non-exhaustive characters is the inclusion in the text of the list of the words "or any ground" (in the French version "toute autre situation"). The words "any ground" are usually given a broad meaning, and their interpretation is not limited to characteristics that are personal in the sense that they may be innate or inherent.

General policies or measures that have a disproportionately harmful effect on a particular group may be considered discriminatory, even if they are not directed specifically at that group and there is no discriminatory intent. However, this happens if such a policy or measure does not have an objective and reasonable justification.

The purpose of this article is to determine the peculiarities of the methodology of ECtHR`s interpretation in cases of the right to non-discrimination.

II. Theoretical Background.

However, where there exists a huge number of works on human rights in general and the right to equality in particular, a number of individual studies devoted to Art. 14 and the adoption of Protocol № 12 to the Convention and

to the ECtHR`s interpretation in this direction is much smaller. In the context of the issues of this study, the conceptual analysis of human rights principles interpretation in the context of the ECHR (Karvatska & Zamorska, 2018), as well as some special studies is of particular importance. A leading scholar in the field of human rights prof. Mytsyk V.V. explains the right to non-discrimination as "illegality of discrimination against national minorities, its prohibition and national and international guarantees of non-discrimination" (Mytsyk, 2004). Discrimination, in his opinion, entails legal liability and sanctions at both national and international levels for entities that violate the right to non-discrimination (Mytsyk, 2004).

N.V. Dromina-Voloc analyzes transformation processes regarding the application of the principle of non-discrimination. ECtHR`s decisions are examined in her article based on the examples of specific cases (Dromina-Voloc, 2020).

III. Argument of the paper

A wide range of general philosophical, general scientific, special scientific, and special legal methods was used in writing the article. Among the interdisciplinary methods, a special place is occupied by a system-structural method, on the basis of which the system connections in the system of interpretive activity of the ECtHR were substantiated. The use of the psychological method made it possible to reveal the nature and role of judicial discretion in the interpretive process. The historical method enabled to trace the evolution of the formation of the rules of interpretation used by the Court. The anthropological method focused on the anthropological interpretation process carried out in the ECtHR. The synergetic method allowed to determine the basic principles of formation of legal positions and interpretive methodology of the ECtHR. The formal-legal method was used to analyze the case-law of the Court. The comparative legal method rendered it possible to compare the legal positions of the ECtHR in the process of interpretive activity.

IV. Argument to support the thesis

Established patterns, made generalizations, and conclusions of the authors are largely based on the results of scientific analysis of significant law enforcement practice of the ECtHR, carried out using the empirical method of research.

As a consequence of its ancillary nature, Article 14 always applies in conjunction with another article of the Convention. As a rule, the Court begins by assessing whether there has been a violation of the referred substantive law. Once violations are found, it is often unnecessary to continue the investigation to determine whether there has also been discrimination. Conversely, it

sometimes happens that the Court begins by examining the facts envisaged by Article 14, as it considers that the central issue in the dispute is whether there has been discrimination. Having found a violation of Article 14, the ECtHR considers it unnecessary to determine whether there has also been a violation of the substantive law in question.

The ECtHR in the process of interpretation insists on its legal position that Article 14 ECtHR supplements other substantive provisions of the Convention and the Protocols thereto. Lacking independent action, this Article is applied exclusively with respect to "enjoyment of rights and freedoms" enunciated in these provisions. The application of Article 14 does not require a violation of the substantive rights guaranteed by the Convention as a precondition. The prohibition of discrimination, therefore, applies to all rights and freedoms that, in accordance with the Convention and its Protocols, every state is obliged to ensure. The article is also applied to those additional rights arising from the general meaning of any article of the Convention that a State has voluntarily undertaken to comply with. It is necessary and sufficient that the facts in dispute fall within the scope of one or more Articles of the Convention. The Court has established in its case-law that only differences in treatment based on a defined characteristic or "ground" can constitute discrimination within the meaning of Article 14. In addition, for a question to arise under Article 14, there must be a difference in the treatment of persons in a similar or relatively similar situation.

The ECtHR does not apply Art. 14 of the Convention alone, but only in combination with other articles and protocols, as it complements them and serves to ensure the rights and freedoms provided and protected in those articles. However, the application of this article does not necessarily imply a violation of any of the rights contained in the Convention. States must absolutely ensure the respect for the rights of the Convention without any discriminatory restrictions, both in a positive sense, in accordance with the substantive article, and in a negative sense, in the sense of refraining from any discriminatory acts (European Court of Human Rights, 2009b).

In fact, the prohibition of discrimination, according to Art. 14 goes beyond the exercise of conventional rights and freedoms, but relates also to additional rights that states voluntarily oblige to guarantee in accordance with the national law (European Court of Human Rights, 2006b, 2009a, 2020a). However, Art. 14 includes many grounds (for example, sexual orientation, health, marital status) that may not appear in national anti-discrimination laws. However, Art. 14 applies only when the situation in question is within the scope of the law of the Convention, although the ECtHR is often in difficult situations when the cases concern the spheres of public life, where a priori are problems that cause discrimination. That`s why in cases regarding violations of the right to respect for private and family life as a result of inhuman discriminatory acts

or degrading treatment, the Court sometimes avoids discussing the circumstances.

In addition, the list of rights contained in the Convention is much narrower than its analog in the Universal Declaration of Human Rights. This applies to many social and economic rights, especially social security and the right to work. Today's problems are often concentrated in the areas of employment, opportunities to protect and maintain health, exercise the right to health, access, and acquisition of housing. The differentiated approach of the state and society in these areas forces the ECtHR to adequately respond to the challenges of life in its decisions through an evolutionary dynamic interpretation.

The nature of discrimination changes with conditions and evolves over time. Therefore, in order to understand other forms of differential treatment, which cannot be reasonably and objectively justified and have a character similar to the grounds expressly stated in paragraph 2 of Article 2 of the International Covenant on Economic, Social and Cultural Rights, a flexible approach is needed to determine the basis related to "other circumstances". These complementary grounds are widely recognized when they reflect pieces of experience of social groups that are vulnerable and have suffered and continue to suffer from marginalization. However, the list of additional grounds is not intended to be exhaustive. Other possible grounds may include not recognizing a person's legal capacity due to being in prison or forced placement in a psychiatric hospital, or a combination of two prohibited grounds of discrimination, such as denying access to a social service on the basis of gender or disability.

If earlier in the traditional practice of the ECtHR the concept of «discrimination» was understood to some extent limited, as explicit or direct, now it is interpreted much more broadly, given the hidden forms and due to the reasoning of the court. Thus, in the case of *Baczkowski & Ors v. Poland* (3 May 2007) concerning homophobia by the local authorities, the mayor of Warsaw, in response to a request from a group of individuals and an association to hold a march and some other meetings expressed that "propaganda of homosexuality is not equivalent to exercising of one's right to freedom of assembly" and did not give permission (European Court of Human Rights, 2007). The court specified the concept of an effective remedy, which means the possibility of obtaining a decision on the planned events (in this case, the law required a request to the municipality to hold a demonstration at least three days before the event). In its decision, the ECtHR noted that elected officials should be cautious in their statements, as their comments could be interpreted as instructions for officials). However, the ECtHR usually requires strong evidence in recognizing violations in the actions of civil servants on the basis of bias and in tracing the link between prejudice and discrimination.

In the case of *Biao v. Denmark* (2014), the ECtHR applies this approach, based on the rejection of stereotypes, to the field of discrimination based on ethnic origin: the Court defines that general assumptions or social attitudes of the majority towards people, who have acquired their citizenship by naturalization, cannot be a valid justification for giving them a less favorable attitude (European Court of Human Rights, 2014).

The concretization of the aforementioned provisions on «discrimination» is confirmed by the practice of the ECtHR, which has repeatedly made decisions regarding violations of Art. 14 by means of indirect discrimination. This practice is applied from the moment the court makes a decision in the case of *Hugh Jordan v. United Kingdom* (4 May 2001, para 154) (European Court of Human Rights, 2001). Although even earlier in the case of the *Abdulaziz, Cabales and Balkandali v. United Kingdom* (28 May 1985) a direct application of the concept of discrimination was clearly outlined (European Court of Human Rights, 1985).

In particular, the demand of the article to create conditions for non-discrimination of a person was confirmed in the case of *Thlimmenos v. Greece* (6 April 2000). The ECtHR found a violation of the rights of a Greek citizen who was denied in obtaining an auditor's license because he had a criminal record for non-performance of the military service on religious grounds, and specified that the violation occurs when the state does not apply a differentiated approach to people in unequal conditions «without objective and sufficient justification» (*Thlimmenos v. Greece*, para 7) (European Court of Human Rights, 2000). The ECtHR has actually interpreted the circumstances of the case and established the facts of indirect discrimination, within which arise less favorable conditions or situation compared to other persons in a consequence of realization or application of formally neutral legal norms, assessment criteria, rules, requirements, or practices for a person on certain grounds.

The case of *DH and Others v. The Czech Republic* (13 November 2007) can be regarded as a model case pursuant to Art. 14 in combination with Art. 2 of Protocol No. 1. The Czech Republic, according to the Court, sought to address the issue of ensuring their schooling, but no constructive measures were taken to guarantee it for the Romani people (DH and Others v. The Czech Republic, para 206) (European Court of Human Rights, 2006a). Children were placed in special schools for children with mental disabilities, isolated from other children and society. As a result, they received an education that did not give them the opportunity to further integrate into society, to acquire the necessary skills. The state organized training for them as members of an unfavorable class, howsoever there was a disproportion between the means and purpose used by the Czech authorities. As a result, a new legislation was passed that abolished special schools and provided education for Romani children in regular schools. In this

case, the doctrine of discretion is a clear interpretive tool used by the Court to help solve national problems.

The ECtHR has in fact extended the rights of the Convention. Complaint against Art. 14, which does not indicate the relevant substantive law, will be rejected as inadmissible. However, there are situations when the ECtHR is hesitant to take a final decision and is not ready to unambiguously interpret the provisions of the Convention in specific cases of persons in the same situation. This is the case of *Eweida and Others v. The United Kingdom* (15 January 2013), in which the Court combined in fact several cases against the United Kingdom, in which a flight attendant, a nurse, a registrar of births, deaths, marriages and a geriatrician, violating the ban on employers to wear crosses around their necks, sought to protect freedom of religion and discrimination at work (European Court of Human Rights, 2013a). Their applications to the ECtHR were related to the issue of thought, conscience and religion enshrined in Art. 9 of the Convention and the prohibition of discrimination, in accordance with Art. 14. However, the plaintiff's lawyer insisted that nothing in the Convention indicates that religious freedom ceases when someone crossed a threshold of work or is at the workplace, especially given that most people spend much of their lives at work. The ECtHR generally recognized the right of Christian employees to wear the cross publicly. In the case of the flight attendant, the judges noted that the employer's ban violated the religious freedom of the employees. This is especially noticeable against the backdrop of the permission of the same airline for Sikh men to wear a blue, blue, and white turban, a Sikh bracelet, and for full-time employees, Muslim women - a hijab of the approved color. The court pointed to the exitance of double standards when Muslim women were allowed to demonstrate their faith and Christian flight attendants were forced to hide the cross in uniform.

The situation was less straightforward for the nurse, as her freedom of religion had to commensurate with her responsibilities: accidents in the event of physical injuries to patients with a cross chain should also be prevented. That is, the right to wear religious symbols must be balanced with the right of others. The other plaintiffs' complaints were rejected. The ECtHR made Solomon's decision not to make a final decision, but to send it to the Grand Chamber.

However, the growing volume of cases on religious issues, the spread of pluralism in a modern society highlights the need for their discussion and interpretation. This relates in particular to the case of *Lautsi and others v. Italy* (18 March 2011), when the ECtHR decided that the presence of religious symbols in classrooms (*the crucifixion of Jesus Christ on the walls*) was within the discretion of the State because there is no European consensus on the storage of religious symbols in classrooms (European Court of Human Rights, 2011b). Earlier, the Court was solving the case of *Ahmet Arslan and Others v. Turkey* (23 February 2010) concerning a religious group whose representatives

complained that Turkish law restricted the wearing of hats and religious clothing in public (European Court of Human Rights, 2010). The Court noted that religious neutrality may take precedence over the right to practice one's religion. However, in this case, the Court found a violation of Art. 9 of the Convention, arguing that there was no evidence that the applicants posed a threat to public order, disturbed passers-by, or put pressure on them during their meetings.

A recent example of discrimination where the ground for a personal characteristic based on disability is the new 2020 case of *G L v. Italy*, the decision of which was adopted by the Chamber on 10 September 2020 and which will become final in accordance with Article 44 § 2 of the Convention (European Court of Human Rights, 2020b). The case concerned the inability of a young girl, G.L., who suffered from autism, to receive specialized training assistance, despite the fact that such support was provided by law. Since 2007, when she started to visit the kindergarten, G.L. has been receiving training assistance from a specialist teacher in order to improve her integration and socialization in school. However, such specialized care was suspended during her first school year. In May 2012, the parents appealed to the administrative court to get compensation for damages for non-compliance with her right to receive specialized care, but their request was rejected in November 2012. The applicant's parents' appeal against this decision was rejected in May 2015.

The ECtHR concluded that G.L. could not continue to attend primary school under conditions equivalent to those enjoyed by students with no special needs, and this difference in attitude was caused by her disability. Therefore, during two school years, in addition to the private assistance, paid by the girl's parents, G.L. did not receive the specialized assistance she was entitled to receive and which would enable her to obtain a school education and use social services on the same terms as other students. The ECtHR reiterated that, under Article 15 of the revised European Social Charter, States have an obligation «to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities, and leisure» (European Court of Human Rights, 2020b).

Thus, G.L. should have been provided with specialized assistance to promote her independence and personal communication, as well as to improve her learning, interaction with others, and integration in school, in order to avoid the risk of marginalization. The discrimination suffered by the girl was even more serious, as it took place at the stage of primary education, which formed the basis of the child's education and social integration, giving her the opportunity to gain her first experience of living together in society. There has accordingly been a violation of Article 14 of the Convention in conjunction with

Article 2 of Protocol No. 1 to the Convention (European Court of Human Rights, 2020b).

A clear example of discrimination, when the only reason for the difference is a personal characteristic based on disability, is the case of *Çam v. Turkey* (23 February 2016), in which the applicant was refused for admission to the Turkish Academy of Music at Istanbul Technical University on the grounds of her blindness. The court found a violation of Art. 14 and Art. 2 of Protocol No. 1, but sought to ascertain whether the State was able to grant access to education to a person or group of persons with special needs, as the provisions on admission to the Academy of Music did not exclude blind people (Çam v. Turkey, para 59) (European Court of Human Rights, 2016). The decision substantiates the need to take into account current trends in the fundamental principles of universality and non-discrimination in the exercise of the right to education, and emphasizes that inclusive education is the most well-known means to ensure these fundamental principles (Çam v. Turkey, para 59) through physical, educational, organizational forms, namely the architectural accessibility of school buildings, teacher training, adaptation of school programs or appropriate means (Çam v. Turkey, Para 66), whereas "discrimination on the grounds of disability also includes the refusal to create appropriate conditions" (Çam v. Turkey, Para 67) (European Court of Human Rights, 2016).

A separate category of ECtHR cases is those dealing with complaints related to ethical issues related to HIV infection. A number of court cases have been filed with the ECtHR concerning discrimination against HIV-infected applicants. In the case of *I.B. v. Greece*, the applicant was fired and discriminated against due to suspected HIV infection (European Court of Human Rights, 2013b). The court found in this action a violation by the state of Articles 8 and 14 of the Convention. A similar discrimination case, *Kiyutin v. Russia*, is related to the refusal of the respondent state to issue a residence permit to a foreign person due to his HIV infection (European Court of Human Rights, 2011a). As in the previous judgment, the Court found a violation of Articles 8 and 14 of the Convention, noting that persons with HIV infection belong to a "particularly vulnerable group in society", which is subjected to various forms of discrimination due to universal misconceptions about the spread of the disease or prejudices regarding the reasons for its occurrence and distribution.

The ECtHR's practice on discrimination is extremely diverse and shows the dynamics of the development of criteria for establishing discrimination. Thus, in the case of *Alexander Alexandrov v. Russia* the ECtHR found a violation of Article 14 in conjunction with Article 5 (Right to liberty and security) (European Court of Human Rights, 2018). The case concerned the applicant, who was found guilty of beating a police officer while being intoxicated in 2005 by the Moscow District Court. The Court sentenced him to one year in prison. In deciding on the sentence in question, the Court listed a number of mitigating

circumstances of the case which prima facie gave the applicant the right to a non-custodial decision, such as a suspended sentence or a fine. As the applicant's place of residence was clearly indicated as a factor which, in making the decision, created a difference in treatment on that ground between the applicant and other offenders convicted of similar offenses who were entitled to a suspended sentence or a fine. It turns out that the difference in attitude does not emerge from national law. The Criminal Code of the Russian Federation provided for the possibility for a person serving a suspended sentence to change his place of residence under certain conditions.

Affirming the existence of strong social ties in the applicant's hometown (positive characteristics of neighbors and colleagues), the district court did not substantiate why the benefits of a non-custodial sentence should have been conditioned by the applicant's possibility to reside outside his home region, near the place where he was prosecuted and convicted. The Court of Appeal did not pay attention to the allegation of discrimination made by the applicant's lawyer and did not offer any justification for the difference in treatment.

The court pointed out that it had not been sufficiently demonstrated that the difference in attitude had a legitimate aim or had an objective and reasonable justification.

In the case *of Danilenkov and Others v. Russia (30 July 2009*), the ECtHR restored justice regarding State's failure to fulfill its positive obligations to provide effective judicial protection to members of the Russian Dockers' Union against discrimination on the grounds of trade union membership (European Court of Human Rights, 2009c).

Actions, that do not restrict the rights and freedoms of others and do not create obstacles to their implementation, as well as do not provide unjustified benefits to individuals and/or groups of persons on their certain grounds, to which positive actions are applied, are not considered as discrimination. The following actions are considered as positive: special protection by the state of certain categories of persons in need of such protection; implementation of measures aimed at preserving the identity of certain groups of persons, if such measures are necessary; granting benefits and compensations to certain categories of persons in cases provided by law; establishment of state social guarantees for certain categories of citizens; special requirements provided by law for the exercise of certain rights of persons.

Emblematic in this context is the recent ECtHR case, *Napotnik v. Romania.* The applicant worked at the Romanian consulate in Slovenia, got pregnant, and gave birth to a child. Her mission was terminated when she announced her second pregnancy shortly after the first one. According to the domestic authorities, the applicant's early termination of service abroad was justified by the fact that visits to doctors and maternity leave would jeopardize the functionality of the consulate. Thus, during the applicant's previous absence

from the office, consular services were suspended and requests for assistance were forwarded to neighboring countries (European Court of Human Rights, 2020c).

The Court, therefore, had to balance the right of a pregnant woman not to be discriminated against with the legitimate aim of maintaining the functional capacity of the civil service. Referring to this approach of the EU Court, the ECtHR noted that only women can be treated differently on the grounds of pregnancy, and therefore any such difference in treatment may constitute direct discrimination on the grounds of sex if it is not justified. In this case, the national authorities provided appropriate and sufficient grounds to justify the measure.

Firstly, given the nature of the applicant's work and the urgency of the inquiries she was dealing with, her absence from the office had a serious effect on the consular service. Therefore, a preschedule termination of her service abroad was necessary to protect the rights of others, in particular, Romanian citizens in need of consular assistance in Slovenia. Secondly, although the impugned decision was motivated by the applicant's pregnancy, it was not intended to disadvantage her. Changing her working conditions cannot be equated with job loss or disciplinary action. In addition, she continued to be promoted despite her long absence and therefore did not appear to have suffered any long-term setbacks in her diplomatic career.

The Court unanimously ruled that there had been no violation of Article 1 of Protocol No. 12: the recall of a female diplomat from a foreign mission on the grounds that she had informed about her pregnancy did not violate Article 1 of Protocol No 12.

The main task of the Court is to find a balance between postponing such a decision for national courts and legislators, on the one hand, and maintaining «European supervision», which «empowers the ECtHR to make the final decision», on the other. In many cases, while there is no single European standard and relevant European rules or national law are being developed, the Court proposes to give the state a wide margin of discretion for a transitional period. Thus, ECtHR`s judgments serve as an alarm mechanism through which the Court is able to identify potentially problematic practices for the Contracting States before they actually become violations, thus alerting States to the questionability of their laws.

V. Conclusions

The ECtHR's interpretive practice in cases of the right to non-discrimination has its own peculiarities. Non-discrimination, along with equality before the law and the right to equal protection of the law without any discrimination, is a fundamental and general principle concerning the protection of human rights.

During the period of functioning of the ECtHR, the Court has processed a huge amount of cases concerning violation of the right to equality and the inextricably linked principle of non-discrimination under Art. 14 and Art. 1 of Protocol № 12 of the ECHR. The evolution of the interpretation of the ECtHR shows the transformation of approaches to the interpretation of the right to non-discrimination. The court gradually began to expand the range of possible violations, from outright prohibition to the detection and the statement of indirect discrimination, and its decisions contributed to the normative formulations of the principle of non-discrimination in national systems and its gradual transformation from a purely declarative to a coherent effective mechanism of protection of discrimination victims and a mechanism of the approval of democracy, human dignity and the rule of law as fundamental principles of the Council of Europe. At the same time, the rule of law forms the central principle of interpretation of the Convention. At the same time, the rule of law forms the central principle of interpretation of the Convention. A consensual investigation allows the ECHR to tie its decisions to the pace of change in national law, recognizing the political sovereignty of the respondent States and, at the same time, legitimizing its own decisions against them, adhering to the principles of a democratic state governed by the rule of law.

The legal position of the ECtHR sees a difference in treatment considered as discriminatory for the purposes of Article 14 of the Convention if it "has no objective or reasonable justification", in other words, if it does not pursue a "legitimate aim" or if there is no "reasonable balance of proportionality between the means used and the aim set".

In some cases, the ECtHR applies Article 14 in conjunction with another article of the Convention, which confers a right or freedom, and is not adopted separately. This is not a limitation on the scope of Article 14 of the Convention. In other words, if Article 14 can be invoked only if it is combined with another article of the Convention guaranteeing a right or freedom, or a right provided by law, it does not become less effective even in the absence of a violation of that right or freedom taken separately. Article 14 of the Convention does not provide for general protection against discrimination: it prohibits discrimination only in the exercise of the rights and freedoms guaranteed by the Convention and its protocols. It may therefore be invoked only in conjunction with another provision of the Convention or one of its protocols. However, 14 has a limited scope of application; a number of forms of discrimination are not foreseen by the Article, in particular those forms with regarding economic and social rights, which are largely not guaranteed by the Convention.

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