

BETWEEN REDRESS AND REFORM

POSITIVE REMEDIES IN BELGIUM



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DISCRIMINATION MODELS

Individual complaint model



Negative obligation
not to discriminate

Complaint by
victim(s) for one or
more isolated
situations

Repair and
compensate

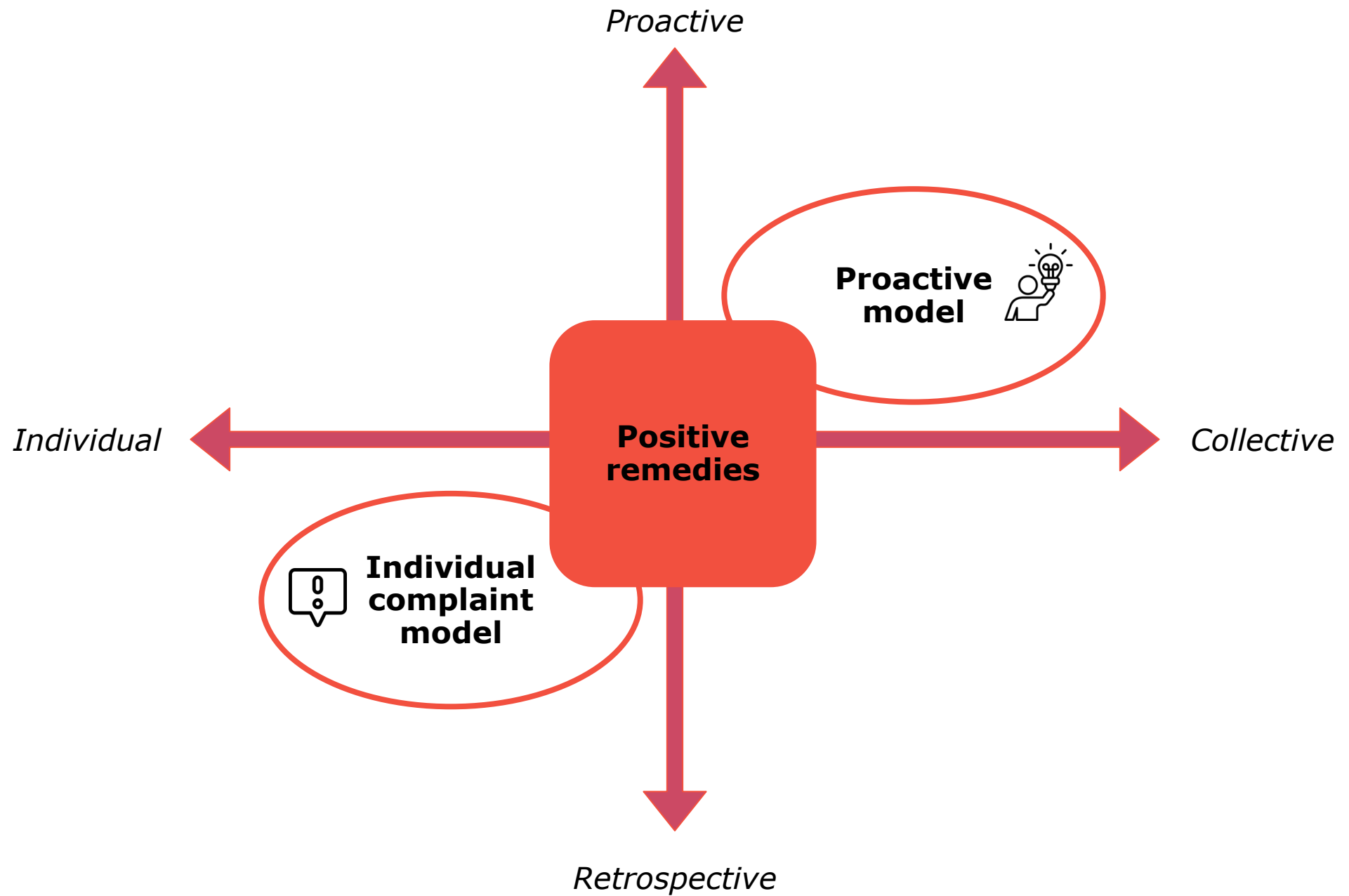
Positive obligation
to promote equality

Initiated by
governments,
employers, service
providers

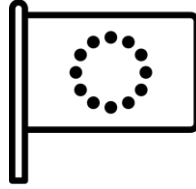
Prevent and **change**



Proactive model



POSITIVE REMEDIES



Framework Equality Directive 2000/78/EC

Article 17 - Sanctions

Member States shall lay down the rules on **sanctions** applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are applied. The sanctions, which may comprise the payment of compensation to the victim, must be **effective, proportionate and dissuasive**. [...]

Pay Transparency Directive 2023/970

Article 17 – Other remedies

1. Member States shall ensure that, in the case of an infringement of rights or obligations related to the principle of equal pay, competent authorities or national courts may, in accordance with national law, at the request of the claimant and at the expense of the respondent, issue:

- (a) an order to stop the infringement;
- (b) **an order to take measures** to ensure that the rights or obligations related to the principle of equal pay are applied.

2. Where a respondent does not comply with any order issued pursuant to paragraph 1, Member States shall ensure that their competent authorities or national courts are able, where appropriate, to issue a recurring **penalty payment order**, with a view to ensuring compliance.



Article 20 Antidiscrimination law




[...]

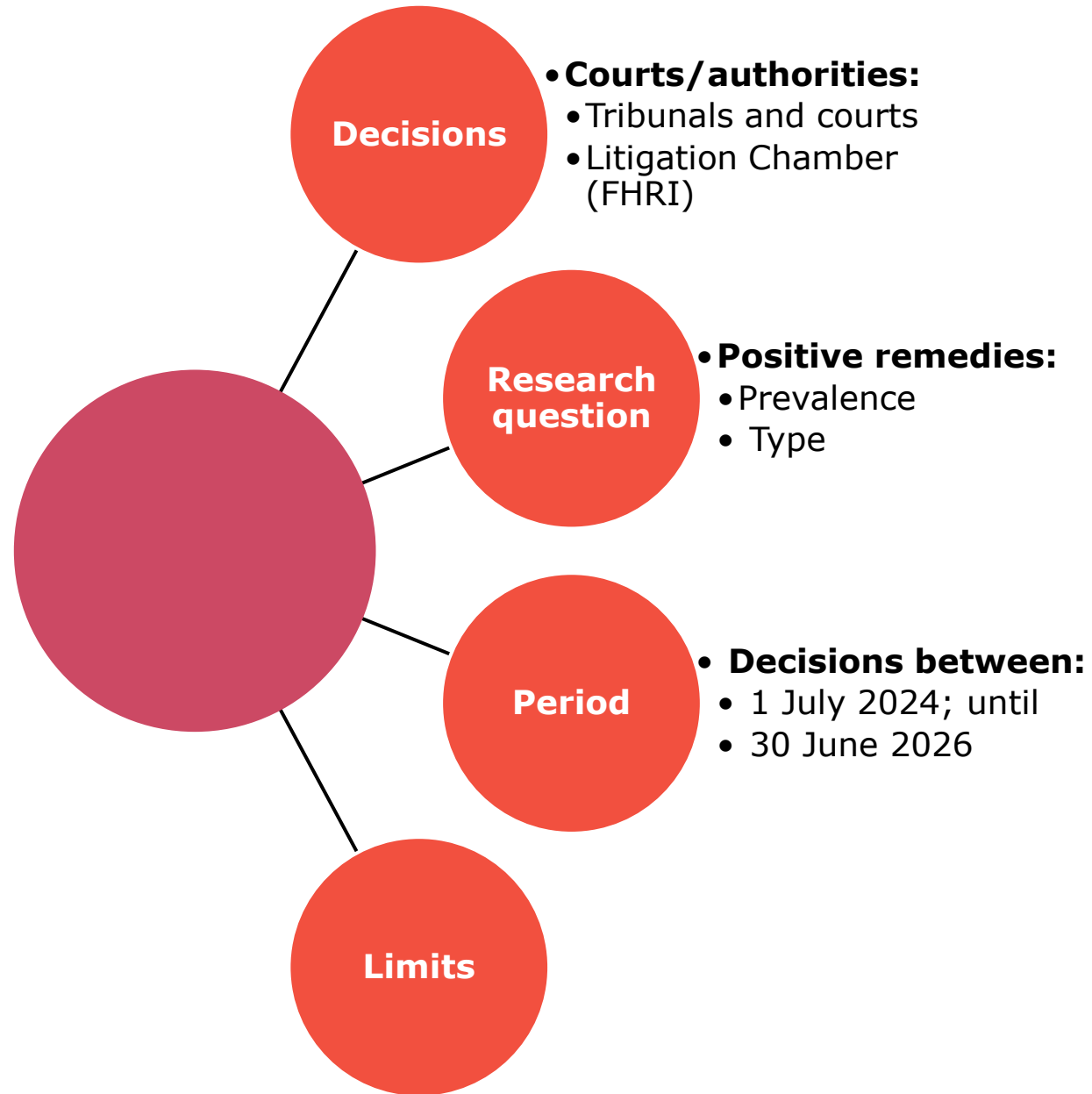
The president of the court has the possibility to **impose positive measures** to prevent the recurrence of similar acts that constitute a violation of the provisions of this law.

[...]

Article 16, §5, Decree establishing a Flemish Human Rights Institute

The Litigation Chamber justifies its decision in a clear and understandable manner. In doing so, the Litigation Chamber may issue recommendations to the person who committed the discrimination.

Features	Tribunals & Courts	Litigation Chamber (FHRI)
<p>Initiative</p> 	<ul style="list-style-type: none"> • Upon request • In interim proceedings • Court president 	<ul style="list-style-type: none"> • Discrimination complaint within Flemish competences • Unsuccessful mediation • President & two assessors
<p>Assessment</p> 	<ul style="list-style-type: none"> • Respect separation of powers • Generalised expertise 	<ul style="list-style-type: none"> • Quasi-judicial body; less constraints • Specific expertise
<p>Consequences</p> 	<ul style="list-style-type: none"> • Legally enforceable rulings • Not published • No formal monitoring 	<ul style="list-style-type: none"> • Non-binding recommendations • Publicly available • Active monitoring • Legal procedure still possible



TRIBUNALS AND COURTS

OUTCOMES OF DISCRIMINATION CASES *



Nullity of the discriminatory provision	0
Compensation <ul style="list-style-type: none"> • Statutory fixed compensation • Compensation for actual damages suffered 	37 <ul style="list-style-type: none"> • 34 • 3
Negative injunction: cease and desist order <ul style="list-style-type: none"> • With penalty payment • Without penalty payment 	7 <ul style="list-style-type: none"> • 3 • 4
Positive injunction: positive measures to prevent repetition of discrimination <ul style="list-style-type: none"> • With penalty payment • Without penalty payment 	5 <ul style="list-style-type: none"> • 2 • 3
Compulsory contract	1

* 60 judgments, of which 39 findings of discrimination; last update: May 5, 2026

LITIGATION CHAMBER (FHRI) OUTCOMES OF DISCRIMINATION CASES*



Individual recommendations

- Grant the complainant access to benefit that was denied to them
- End sanctions against the complainant
- Provide reasonable accommodations for disabled persons
- Take measures to improve communication or the relationship

- 10
- 1
- 5
- 1

Structural recommendations

- Revise policies and procedures
- Provide an effective complaint handling system
- Provide adequate safeguards against retaliation

- 26
- 3
- 2

**CAN POSITIVE REMEDIES MAKE A
DIFFERENCE?**



TRIBUNALS AND COURTS

LITIGATION CHAMBER

Initiative

- | | | |
|--------------------------|---|---|
| • Low threshold | X | ✓ |
| • Fragmented competences | ✓ | ✓ |

Assessment

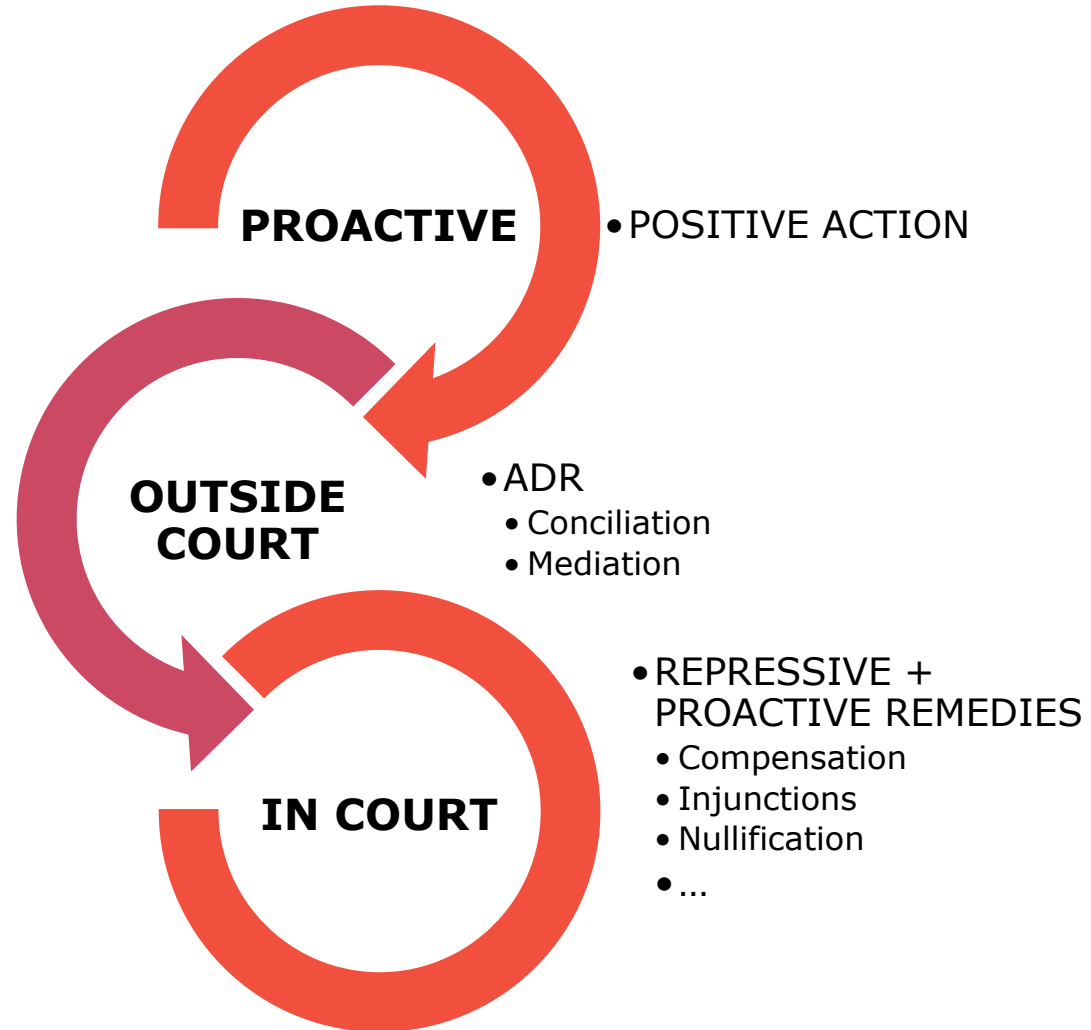
- | | | |
|----------------------------|---|---|
| • Little legal constraints | X | ✓ |
| • Specific expertise | ? | ✓ |

Outcome

- | | | |
|----------------------------|---|---|
| • Publicly available | X | ✓ |
| • Binding | ✓ | X |
| • Sanctions & compensation | ✓ | X |
| • Follow-up | X | ✓ |

CONCLUSION

EFFECTIVE PROTECTION?



THANK YOU FOR LISTENING

I am happy to answer questions and engage in discussion!

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