



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

# Compliance by Member States with Specific Indications given by the European Court under Article 46 of the Convention

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# Motivation

- ▶ Implementation problem: The ECtHR relies on the respondent states to give effect to its judgments.
- ▶ Respondent states may face political incentives to resist and delay execution
- ▶ Political science research highlights the importance of domestic politics for prompt execution
  - ▶ Domestic accountability institutions
  - ▶ Support for the Court and the rule of law
  - ▶ The ability of domestic audiences to detect delays in the execution process
- ▶ How do remedial indications under article 46 influence compliance with ECtHR judgments?

# Remedial Indications and Compliance Politics

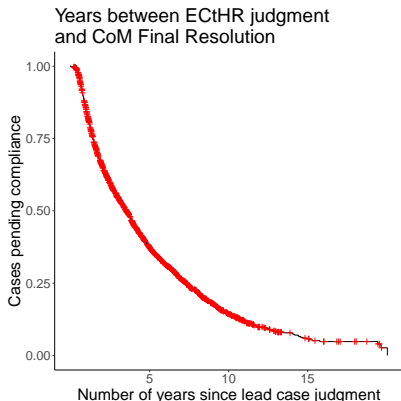
- ▶ Remedial indications enable compliance monitoring
  - ▶ Clear expectation concerning measures that will be implemented
  - ▶ Observers may more credibly call out lack of progress
  - ▶ Effect of compliance monitoring is greater if delayed compliance is politically costly
- ▶ Respondent states and the CoM may be better situated to identify appropriate remedies
  - ▶ If states will not resist execution, it may be better to offer them more discretion
- ▶ Open non-compliance may damage the social legitimacy of the Court
  - ▶ The Court might seek to avoid indicating remedies with a low likelihood of being implemented

# Expectations

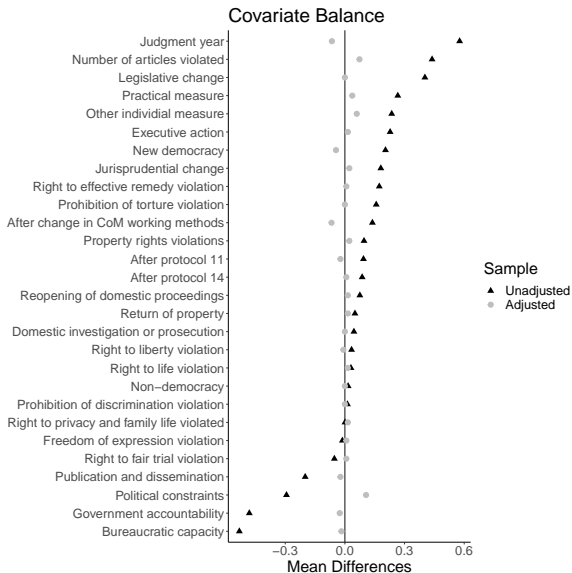
1. Judgments containing remedial indications are complied with more quickly than comparable judgments without remedial indications
  2. The relationship between remedial indications and quicker compliance is stronger where domestic institutions enable holding governments accountable.
- ▶ But remedies are likely to be indicated selectively, so identifying appropriate comparisons is both crucial and difficult

## Research design

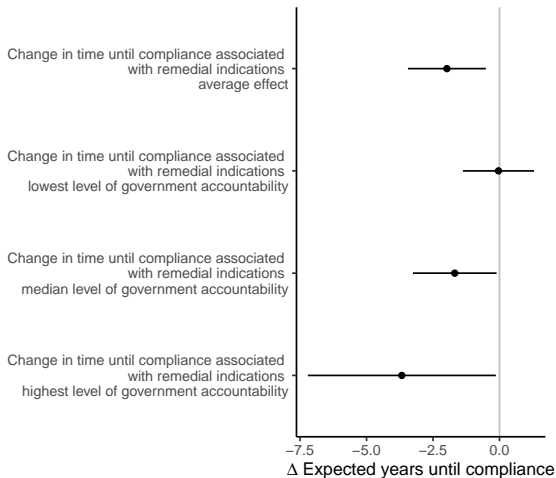
- ▶ Event history analysis of time between (lead) judgment and CoM final Resolution until June 1, 2016
- ▶ I identified 143 cases with remedial indications in the lead judgment (102 cases) or in follow-on cases.
- ▶ I include indicators for the types of measures needed for implementation based on CoM documents
- ▶ I include other variables from HUDOC and existing databases of country-level variables



# Matching to Identify Appropriate “Control Cases”



# Results



Predictions based on Cox models estimated after matching

on needed remedies, type and number of human rights violations,

bureaucratic capacity, strength of accountability institutions, and democratic history

## Conclusions and Caveats

- ▶ Evidence that remedial indications can facilitate prompt execution of ECtHR judgments
  - ▶ But the effect of remedial indications hinges on domestic accountability institutions
  - ▶ Fits with theoretical models and with evidence from other courts
  - ▶ Compliance depends on domestic politics, but it may be possible to influence how such compliance politics unfold
- ▶ The big picture message may be to facilitate compliance monitoring
- ▶ The evidence concerns a specific set of judgments
  - ▶ Not obvious that remedial indications would be helpful in other types of cases
  - ▶ Based only on data until 2016
  - ▶ Difficult to account for differences in how the CoM is monitoring cases with and without remedial indications



Thank you for the attention!