

# Online Appendix for Directing Compliance? Remedial Approach and Compliance with European Court of Human Rights Judgments

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May 15, 2019

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# **A Overview of the ECtHR, its Implementation Problem, and the Shift in its Remedial Approach**

This section provides an overview of the ECtHR, its implementation problem, and the recent changes in the ECtHR's remedial approach.

The ECtHR was established in 1959 to adjudicate alleged violations of the European Convention on Human Rights (ECHR) by the Council of Europe (CoE) member states. Since the entry into force of Protocol 11 in 1998, all ECHR signatories have been obligated to accept individual access to the ECtHR. After the expansion of the CoE following the end of the Cold War, the ECtHR now has jurisdiction over human rights complaints launched by individuals against any of the 47 CoE states.

Since the late 1990s, the caseload of the ECtHR has increased substantially with hundreds of thousands of applications reaching the ECtHR (Lambert Abdelgawad 2017). While most applications are found inadmissible (Aletras et al. 2016: 3), the ECtHR renders hundreds of judgments each year (Madsen 2016: 159-167). In cases where it finds one or more human rights violations, the respondent state is obligated to pay compensation awarded by the Court. If necessary, it must also implement individual measures to remedy the applicant's situation and implement general measures to remove structural causes of the violation (Barkhuysen and van Emmerik 2005: 2). Individual measures may for instance involve releasing the applicant from unlawful detention or returning expropriated property. Necessary general measures might include legislative amendments, changes in the jurisprudence of domestic courts, or practical measures, such as rehabilitating prison facilities.

Traditionally, the ECtHR has not considered itself competent to specify the necessary non-monetary remedies (Nifosi-Sutton 2010: 55). Identifying appropriate individual and general measures has instead been left to the respondent state under the supervision of the Committee of Ministers (CoM), which is the body charged with overseeing the implementation of ECtHR judgments (Hawkins and Jacoby 2010: 37). The CoM supervises the implementation process until it is convinced that the state has complied with the

judgment (Hillebrecht 2014b: 10).

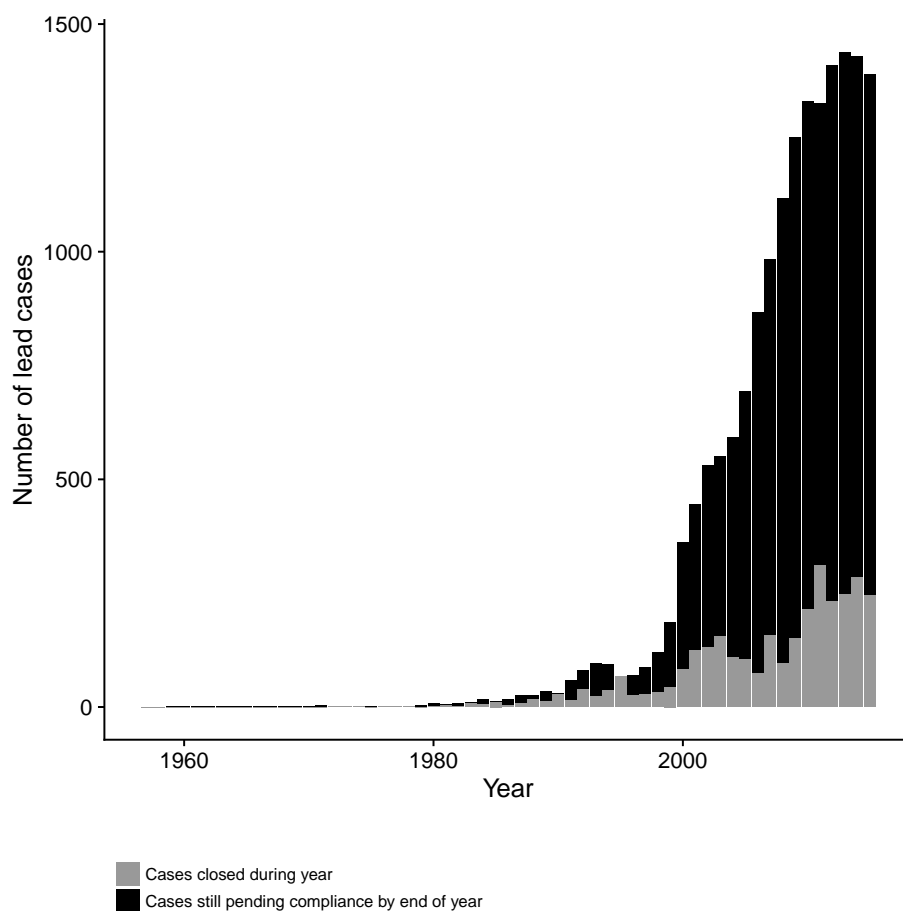


Figure A1: Groups of cases closed by the CoM and groups of cases still under supervision by year.

The lack of strong enforcement mechanisms means that prompt implementation cannot be taken for granted. As the activity of the ECtHR has increased, so has the backlog of cases pending compliance. Figure A1 displays the number groups of cases for which the CoM has closed its monitoring each year, along with the number of groups of cases still under supervision by the end of each year. Because unimplemented cases may lead to repetitive applications before the court, each group of cases may consist of many individual judgments. The figure shows that the backlog of cases pending compliance is far greater than the number of cases successfully implemented each year. The large backlog creates challenges for the CoM and the ECtHR responsible, respectively, for overseeing the compliance efforts and for handling the influx of repetitive applications. The lack of prompt implementation also reduces the effectiveness of the ECtHR in improving human

rights conditions (Hillebrecht 2014*b*: 1103). Finally, media coverage of the implementation problem (e.g. Hervey 2017) risks undermining the ECtHR's social legitimacy.

Delayed implementation of ECtHR judgments has received considerable attention at the political level within the CoE (Council of Europe 2015), by scholars analyzing the covariates of compliance (Hillebrecht 2014*a*; *b*, Voeten 2014, Grewal and Voeten 2015), and by the ECtHR itself. Political discussions have centred on improving the way domestic officials, parliaments, and courts receive adverse ECtHR judgments. Empirical scholarship has focused on how respondent states' domestic institutions and bureaucratic capacity influence compliance. In the meantime, the ECtHR has responded in its own way by altering its remedial practice (Colandrea 2007, Leach 2013, Sicilianos 2014, Huneus 2015, Keller and Marti 2015, Mowbray 2017, Committee of Ministers 2013: 22).

As summarized by Keller and Marti (2015: 836), the ECtHR

has become increasingly willing to occasionally give up its declaratory approach and, instead, spell out in the judgment, in a more or less detailed manner, what measures are required of the respondent state in order to repair the violation inflicted and fulfil its obligation of compliance.

Consider the 2009 judgment in the case of *Ürper and Others v. Turkey*, in which the ECtHR held that Turkey

should revise section 6(5) of Law no. 3713 to take account of the principles enunciated in the present judgment [...] with a view to putting an end to the practice of suspending the future publication and distribution of entire periodicals.

In contrast to the traditional model of implementation, where respondent states are left to identify and implement appropriate remedies, the judgment in *Ürper and Others v. Turkey* thus suggested a specific piece of legislation for Turkey to revise. This example is not an isolated incident, as is shown by Figure A2, which displays the annual number of judgments indicating individual measures, general measures or a combination of individual and general measures.

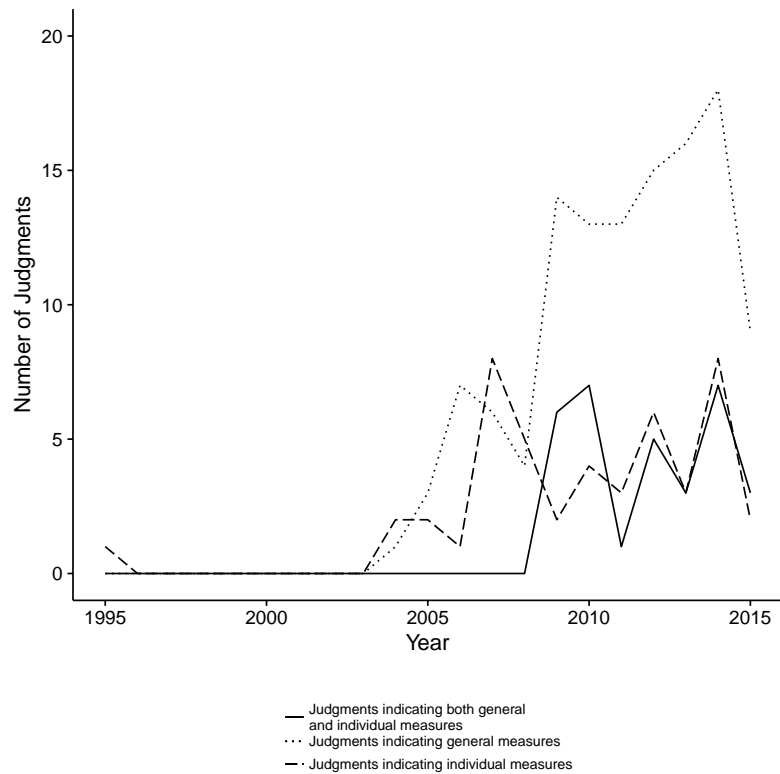


Figure A2: Annual count of ECtHR judgments indicating individual or general measures.

As shown by the dashed line in Figure A2, the ECtHR’s practice of indicating individual measures can be traced back to 1995 (see Section D for details concerning the coding procedure). In its 1995 judgment in the case of *Papamichalopoulos and Others v. Greece*, the ECtHR found that the expropriation of the applicants’ land violated their right to private property and that the property therefore had to be returned (Colandrea 2007: 398). The next judgment indicating individual measures was not rendered until the 2004 ruling in the case of *Assanidze v. Georgia* where the Court ordered Georgia to release the unlawfully detained applicant from prison at the “earliest possible date”. Since then, the number of ECtHR judgments indicating individual measures has increased substantially and by June 1 2016, the ECtHR had indicated individual measures in 79 different judgments.

In 2004, the ECtHR also rendered its first judgment indicating general measures. In the judgment in the case of *Broniowski v. Poland*, the ECtHR ruled that the property rights violations identified in the case affected nearly 80 000 people and ordered Poland to implement legal and administrative measures to ensure compensation for all the affected

individuals in keeping with the principles outlined in the ruling. This first indication of general measures happened within the context of the pilot judgment procedure, which was developed specifically to help the ECtHR respond to its large backlog of repetitive cases resulting from the respondent states failing to resolve the systemic human rights violations from which they originated. The pilot judgment procedure was meant to be used in extraordinary circumstances and would in addition to the indication of general measures involve suspending related (repetitive) applications pending before the ECtHR (Leach, Hardman and Stephenson 2010, Leach et al. 2010, Huneeus 2015: 12).

The practice of indicating general measures was soon extended beyond the relatively rare pilot judgments. Keller and Marti (2015: 838) posit that the ECtHR may currently decide to indicate general measures in any case that reveals “problems of a systemic nature in the domestic legal order”. As Figure A2 shows, indications of general measures are more common than indications of individual measures (see also Sicilianos 2014). This development is significant, as it means that the ECtHR is engaged with reforms that have traditionally been thought best left to the respondent states.

I argue that such remedial indications can facilitate compliance by making the compliance process easier to monitor and providing political cover for actors responsible for implementing unpopular remedies. For instance, Slovenia quickly set up a compensatory scheme as ordered by the 2014 judgment in the case of *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and The former Yugoslav Republic of Macedonia*, concerning foreign currency saving accounts that the owners had not been able to access since the breakup of Yugoslavia. On July 3, 2015 the Slovenian parliament enacted a law that set up a repayment scheme for the affected individuals (Council of Europe 2016: 59-60). Declarations by the Slovenian government suggest that they did not agree with the judgment and that the indicated remedies were a significant financial burden (Government of the Republic of Slovenia 2015). However, the remedial indications received media attention (e.g. Kuzmanovic and Cerni 2014), and the Slovenian government considered compliance to be important for “the reputation of Slovenia as a credible partner in the international community” (Government of the Republic of Slovenia 2017).

The quantitative evidence reported in the letter suggests that the *Ališić and Others* case is not the only case in which remedial indications have promoted compliance: remedial indications have contributed to quicker compliance with some of the ECtHR’s most challenging judgments.

## **B An Original Dataset of ECtHR Judgments and their Implementation by Respondent States**

The letter employs an original dataset of ECtHR judgments and their implementation by respondent states. The dataset was collected in collaboration with Professor Erik Voeten of Georgetown University. It includes information about all ECtHR judgments rendered by June 1, 2016, compliance by respondent states, and separate opinions. This section describes the data collection and the main features of the dataset. The full codebook is included as part of the replication material (Stiansen 2019).

The primary sources for the data collection are the CoE’s HUDOC<sup>1</sup> and HUDOC-EXEC<sup>2</sup> databases, the now defunct CoM state of execution website (replaced by HUDOC-EXEC in early 2017), and original documents available through these databases.

### **B.1 Judgment Data**

The dataset includes a total of 18975 individual judgments. The judgment level data contain information concerning procedure of the case (e.g. the application numbers pertaining to case, the panel of judges sitting on the case, whether the judgment was rendered by a Chamber or by the Grand Chamber, the date of the judgment, and the respondent state), the content of the ruling (e.g. its importance level, its citations to existing case law, and the alleged violations of the Convention that are addressed in the judgment), and finally its conclusions (findings concerning each of the alleged violations). On its own, the judgment data allow addressing questions concerning the politics of ECtHR

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<sup>1</sup><https://hudoc.echr.coe.int/>.

<sup>2</sup><https://hudoc.exec.coe.int>

decision-making (see Stiansen and Voeten 2018 for an application).

## **B.2 Compliance Data**

Importantly, the dataset allows tracking state compliance with adverse judgments. In the compliance data, the units of analysis are so-called lead cases which are defined as “the first ECtHR judgments to reveal a new structural/general problem in a respondent state and which thus require the adoption of new general measures.” The CoM considers compliance jointly for the lead case and all repeat cases linked to it. Thus, implementation of repeat cases cannot be studied independently of the lead case.

### **B.2.1 Identification of lead cases**

To identify lead cases with a CoM Final Resolution, we downloaded the full list of CoM provisional and final resolutions on execution of judgments. The search was conducted June 25, 2016 and included all resolutions until June 1, 2016. We selected the first application number listed in the final resolution as the lead case.<sup>3</sup>

To identify pending cases we downloaded the full list of cases under CoM supervision from the now defunct CoM’s State of Execution website. The search for pending cases was conducted July 1, 2016. Because the list of resolutions contains both provisional and final resolutions, we then sorted the resolutions by date and selected the last resolution for each lead case. This list was then cross referenced with the CoM list of pending cases to assess whether the case was still considered as pending as of July 1, 2016. If a resolution is the last for a lead case and the case is not still listed as pending, we conclude that it is a final resolution.

If a case has more than one respondent state, we create separate rows for each respondent state in the dataset.

This case selection procedure yielded a total of 4538 cases out of which 3245 are lead-case Final Resolutions and 1293 are lead cases that were listed as pending on the state

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<sup>3</sup>In rare cases, application numbers that have initially been listed first in an interim CoM resolution are later merged and listed after another application number in subsequent resolutions or on the CoM’s State of Execution website. In such cases, we only included the application number listed in subsequent final resolutions as the lead case.



of execution website.

### **B.2.2 Compliance indicators**

As discussed in Section C below, compliance with ECtHR judgments can be measured based on whether the CoM has closed the monitoring of the case by rendering a final resolution. The dataset thus includes a dummy variable that takes the value of 1 if a final resolution had been rendered by June 1, 2016 and 0 otherwise. If compliance monitoring has been closed by a final resolution, we record the date of the final resolution.

### **B.2.3 Required remedies**

For each lead case, we manually coded the different types of measures that the respondent state had implemented to comply with the judgment and the types of measures that were still considered necessary by the CoM. The coding is based on the action plans and action reports that respondent states have submitted to the CoM and the CoM assessment of the judgment and the state reports (available at the HUDOC-EXEC website).

We categorized the remedies into the following types of remedies: legislative changes, changes in jurisprudence, executive or administrative action, practical measures (such as the rehabilitation of detention facilities or the recruitment of more judges), publication and dissemination of judgments, returns of property, reopening of domestic judicial procedures, investigation and prosecution of human rights violations, and other individual measures. Figure A3 displays the number of ECtHR implementation processes involving different types of remedies.

## **C CoM Final Resolutions as a Measure of Compliance**

I measure compliance based on whether the CoM has closed the monitoring of the lead case judgment by rendering a final resolution. This section provides additional information about the CoM and its compliance monitoring.

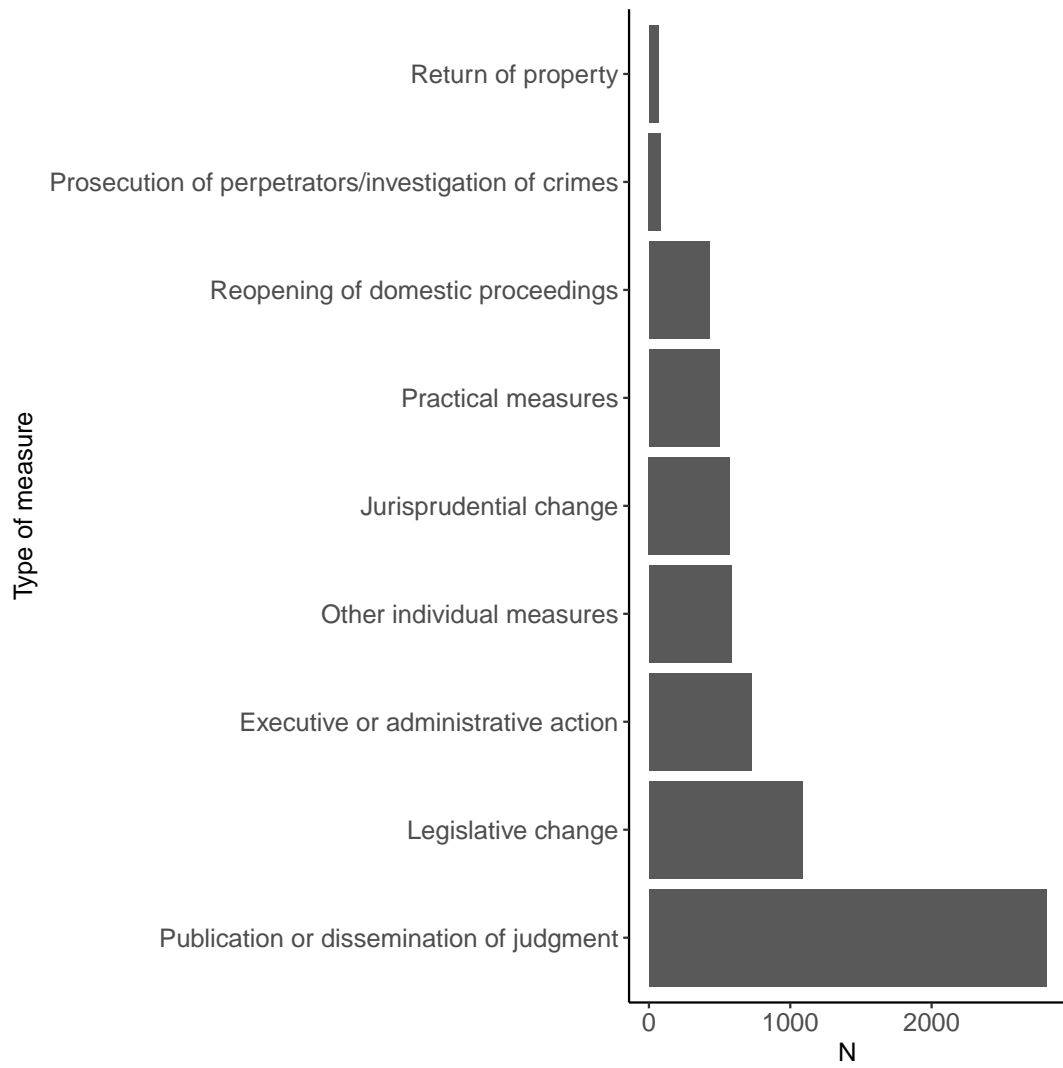


Figure A3: Remedies needed in ECtHR implementation processes

The CoM is the intergovernmental branch of the CoE and consists of the foreign ministers from the member states, but the ministers are represented by their representatives in Strasbourg at the regular CoM meetings. These representatives tend to be legal experts (Çali and Koch 2014: 308).

The day-to-day monitoring of compliance with ECtHR judgments is delegated to a secretariat, “The Department for Execution of Judgments of the ECtHR”. Although the formal decision-making power is held by the state representatives in the CoM, the delegation of interpretation of the judgment and monitoring of the implementation of the necessary remedies ensures the “even-handed and impartial implementation of Court judgments” (Çali and Koch 2014: 314). Because the CoM defers to the conclusions of the secretariat, the CoM final resolutions are considered a reliable measure of state compliance. Final resolutions have therefore been used to measure compliance in existing research (Voeten 2014, Grewal and Voeten 2015).

The CoM compliance monitoring has been strengthened over time. As a result, respondent states have become subject to increasingly close scrutiny, which may affect the duration of implementation processes. In particular, the CoM changed their working methods in 2010 to ensure quicker and more consistent follow-up of new judgments. For instance, a six-month deadline was set for respondent states to communicate planned measures to the CoM Secretariat. Because both such institutional changes and developments in the overall caseload of the CoM might influence time until compliance, I control for the timing of the judgment (see Section E).

Using final resolutions as the benchmark for compliance means that judgments may be considered as not complied with even if some of the needed remedies are implemented. Using final resolutions may thus obscure “partial compliance” as one theoretically interesting outcome (Hillebrecht 2009, Hawkins and Jacoby 2010). However, an important aim of the ECtHR’s remedial indications is to reduce the backlog of unimplemented cases by achieving *full* compliance (Keller and Marti 2015). Final resolutions offer the best measure of whether this goal is achieved.

## D Coding of Remedial Indications

To identify judgments containing remedial indications, I used the key-word search functionality of the ECtHR’s HUDOC database to identify all judgments discussing matters of execution under article 46 of the ECHR, which is the legal basis the ECtHR invokes when indicating remedies.<sup>4</sup> Based on a reading of the judgments, I then excluded judgments that did not indicate any individual or general measures,<sup>5</sup> or where the judgment with remedial indications was appealed and overturned by the Grand Chamber.

The final list was cross-referenced for consistency with a similar list compiled by the *Human Rights Law Implementation Project* (author’s correspondence with Alice Donald and Anne-Katrin Speck) and with the cases listed in the CoM’s annual reports as containing “indications with relevance for execution”.<sup>6</sup>

## E Case and Country-Level Confounders

This section describes all the variables conditioned on using matching and as controls in the subsequent statistical models.

At the case level, the types of action needed for compliance are particularly important. The dataset distinguishes between five different types of general measures: legislative changes, jurisprudential changes, executive action, dissemination of the judgment, and practical measures such as rehabilitating prisons or recruiting more judges. This categorization of general measures is consistent with Grewal and Voeten (2015). For individual measures, typically grouped together in extant research, the dataset allows distinguishing between property returns, reopening of domestic proceedings, domestic investigation or prosecution of individual perpetrators, and “other individual measures”. Remedies in the latter category do for instance include the enforcement of domestic court judgments.

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<sup>4</sup>This search also returned cases, such as *Papamichalopoulos and Others v. Greece*, in which the remedial indications were made without reference to article 46.

<sup>5</sup>Excluded cases include *inter alia* references to other judgments where remedies were indicated, cases where the applicant asked the ECtHR to indicate specific remedies but the ECtHR declined to do so, and cases where other matters of implementation were discussed in the judgment but no remedial indications were made.

<sup>6</sup>These cross-references led to the inclusion of 11 judgments containing remedial indications that were not classified accordingly in the HUDOC database

In addition to the type of remedies needed, case complexity is important. For instance, the 2011 judgment in the case of *Nechiporuk and Yonkalo v. Ukraine* identified a set of violations relating to articles 3, 5, and 6 of the ECHR, and each of these violations required distinct legislative or administrative measures (Agent of the Government of Ukraine 2012). To capture complexity related to the identification of multiple violations, I count the ECHR articles found to have been violated.

Issue area might also influence both compliance politics and judges' eagerness to indicate remedies. For instance, Lupu and Voeten (2012: 421) and Grewal and Voeten (2015: 504-505) argue that cases concerning the right to life or the prohibition of torture are particularly challenging because they often concern the limits of executive power. Because such physical integrity rights violations have particularly severe consequences for the victims, judges might be expected to be more willing to indicate remedies in order to achieve swift compliance. I therefore match on the most frequent violations using a set of dummy variables that receive the value of 1 if the relevant ECHR article was violated and 0 otherwise. Specifically, I match on violations of articles 2 (right to life), 3 (prohibition of torture), 5 (right to liberty and security), 6 (right to fair trial), 8 (right to respect for private and family life), 10 (freedom of expression), 13 (right to an effective remedy), 14 (prohibition of discrimination), and article 1 of Protocol 1 (protection of private property).

As discussed, remedial indications constitute a significant development in the practice of the ECtHR and the number of indications has increased over time. During the same period there have been changes both in the CoM monitoring procedures (e.g. Çali and Koch 2014) and different countries' attitudes towards the ECtHR. I therefore match on when the (lead case) judgment was rendered. I include both a linear time trend and three dummy indicators capturing whether the lead case judgment was rendered after three important institutional changes: the entry into force of Protocol 11 on November 1, 1998, the change in the Working Methods of the CoM on May 10, 2006, and the entry into force of Protocol 14 on June 1, 2010. As noted, the changes in the CoM working methods included the introduction of deadlines for the initial follow-up of new judgments,

which may generally have contributed to quicker compliance.

Due to the low number of cases in the matched dataset, I omit the violation dummies and the timing of the lead case judgment from the multivariate modelling. These variables are, however, well accounted for by the matching.

Characteristics of the respondent state that influence their compliance with ECtHR judgments may also influence the ECtHR's remedial approach. For instance, Hillebrecht (2014*a;b*) finds checks and balances to be important for holding governments accountable for their compliance performance. As argued in the letter, the strength of accountability institutions might also influence the effectiveness of remedial indications. I therefore condition on the Varieties of Democracy project's "accountability index". As discussed in the letter, this index measures the "ability of a state's population to hold its government accountable through elections", through "checks and balances between institutions", and through "oversight by civil society organizations and media activity" (Coppedge et al. 2018, the accountability index is also discussed in more detail by Lührmann, Marquardt and Mechkova 2017). In Section H below, I report additional results using each the three main subcomponents of the accountability measure.

Particularly if legislative changes are needed for compliance, the duration of the implementation process is also likely to be influenced by the number of veto-players that need to agree to implement a remedy and whether these different veto-players belong to different political parties (Voeten 2014). I therefore condition on the constraints imposed by domestic veto-players, using the political constraints index developed by Henisz (2000; 2002). This index ranges from 0 to 1 and is based on the number of independent branches of government that can block policy change, the degree of preference alignment between them, and the extent of preference heterogeneity within each branch.

The proximity to an upcoming election and changes in government might influence compliance if governments are more likely to comply when they face re-election or because new governments are eager to comply with judgments rendered against their predecessor. The relationship between remedial orders and quicker compliance might therefore be confounded if judges consider a country's electoral cycle and provide remedial indications

in judgments that are rendered shortly before an election. I therefore control for time since the last election in the multivariate models. I use the time since the last election (rather than proximity to the next election) because electoral cycles are not fixed in all Council of Europe states. The time until the next election will therefore not always be known to the Court when it decides whether to provide remedial indications (Krehbiel 2016).

I also estimate models in which I control for whether there has been a change the chief party in government or in the orientation of the government (on a left-right dimension) since the lead case judgment was rendered, based on data from the Database of Political Institutions (Cruz, Keefer and Scartascini 2016). Because there are relatively many missing values on these variables, I include these models as additional robustness checks in Section G of this appendix.

The jurisdiction of the ECtHR includes not only consolidated democracies of Western Europe. It also contains recent democracies that Grewal and Voeten (2015) show have a particular propensity to quickly implement ECtHR judgments, and non-democracies such as Azerbaijan and Russia that might be less concerned about political costs from non-compliance. I therefore introduce two dummy indicators for regime type based on the Polity dataset (Marshall, Jaggers and Gurr 2004). The first indicator captures whether the respondent state is democratic (has a Polity score of 6 or higher), but has not yet enjoyed this status for 30 consecutive years. The second indicator captures whether the respondent state is a non-democracy (has a polity score below 6). Long-term democracies constitute the reference category.

As a measure of respondent states' implementation capacity, I follow Grewal and Voeten (2015) in combining the bureaucratic quality and the law and order measures from the International Country Risk Guide (ICRG) (The PRS Group 2012) into an additive index. The resulting index captures the robustness of the respondent state's administrative and judicial structures.

For the purposes of the matching, I use the values of the country-level variables from the year of the lead case judgment. Changes on the institutional variables over time are,

however, accounted for by the multivariate model.

As the ECtHR’s decision to indicate remedies later in the compliance process may be influenced by the influx of repetitive cases, the multivariate models also include a cumulative count of the repetitive cases grouped under each lead case. Because this count by definition is 0 when the lead case is rendered, this variable can, however, not be used as a basis for matching.

## **F Full Cox Models**

Table A1 reports the full Cox models used to estimate the marginal differences displayed in Figure 2 of the letter. The reported estimates are coefficients with standard errors clustered on the respondent states in parentheses.

For model 4, the reported coefficients for remedial indications and government accountability are conditional effects. To evaluate Hypothesis 2, it is therefore necessary to consider the estimated effect of remedial indications at different levels of government accountability (Brambor, Clark and Golder 2006). Figure 2 of the letter shows how the marginal difference in time until compliance associated with remedial indications varies depending on the level of government accountability. Figure A4 similarly shows the estimated coefficient for remedial indications conditional on government accountability. This figure confirms that remedial indications have no substantive or statistical effect on time until compliance for the states with the lowest levels of government accountability, but that the effect increases and becomes statistically significant with higher levels of government accountability.

## **G Robustness Checks for Main Effect**

This section reports the results from additional models estimated to investigate the sensitivity of the link between remedial indications and quicker compliance to other reasonable model specifications. Results from the additional Cox models are reported in Table A2. The results are reported as coefficients with standard errors clustered on the respondent



Table A1: Full Cox models

	Model 1	Model 2	Model 3	Model 4
Remedial indications	-0.81*** (0.14)	0.51** (0.18)	0.71** (0.23)	0.38 (0.47)
Government accountability			1.41** (0.49)	1.29** (0.50)
Government accountability * Remedial indications				0.25 (0.39)
Years since last election			0.24* (0.10)	0.24* (0.10)
Political constraints			1.16 (1.05)	1.12 (1.06)
Non-democracy			0.80 (0.84)	0.80 (0.86)
New democracy			0.71 (0.36)	0.70* (0.36)
Bureaucratic capacity			0.07 (0.13)	0.07 (0.14)
Need for legislative change			-1.03*** (0.20)	-1.02*** (0.20)
Need for jurisprudential change			-0.79* (0.39)	-0.81* (0.41)
Need for executive action			-0.52* (0.25)	-0.53* (0.26)
Need for publication/dissemination			0.44 (0.43)	0.44 (0.43)
Need for practical measures			-0.67** (0.22)	-0.67** (0.22)
Need for property return			-1.98*** (0.44)	-2.01*** (0.46)
Need for reopening of domestic case			0.41 (0.28)	0.43 (0.26)
Need for other individual measure			-0.59* (0.27)	-0.60* (0.28)
Number of articles violated			-0.11 (0.12)	-0.11 (0.11)
Repetitive cases			-0.00 (0.00)	-0.00 (0.00)
AIC	30394.05	745.18	628.08	629.77
Num. events	2099	79	76	76
Num. obs.	3234	252	249	249

\*\*\* $p < 0.001$ , \*\* $p < 0.01$ , \* $p < 0.05$

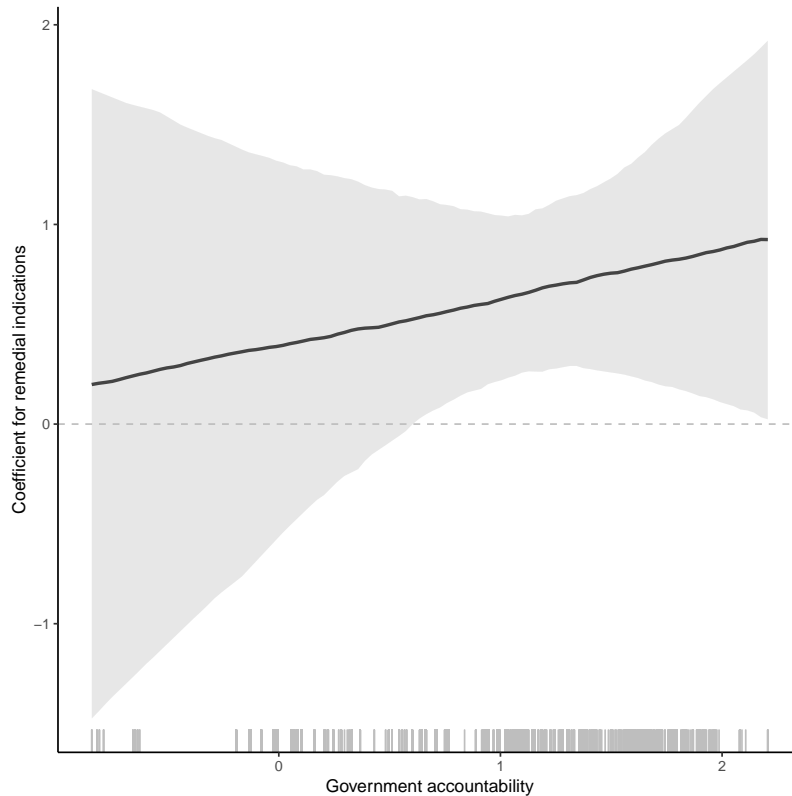


Figure A4: Coefficient for remedial indications conditional on government accountability (Model 4). Shaded area indicates the 95 per cent confidence interval.

states in parentheses.

Firstly, the matched data contain relatively few observations. The matching for the main models is done using one-to-one matching with replacement.<sup>7</sup> One potential concern is that the one-to-one matching approach leads to the pruning of control cases that are not highly dissimilar from the treated cases. The pruning of all but the closest matches also leaves relatively few observations and therefore reduces efficiency (King, Lucas and Nielsen 2017). To assess the sensitivity of the results, I therefore estimated two additional models: one estimated with all controls on the full (unmatched dataset) and one estimated on dataset matched using one-to-two matching.

Model A1 is a multivariate model that controls for the full set of potential confounders estimated on the unmatched dataset. This model also suggests a statistically

<sup>7</sup>In other words, each treated unit is matched with the most similar control unit. In cases where a control unit is the closest match for more than one treated unit, it is matched to both. This approach yields the best balance on the included covariates (Diamond and Sekhon 2013: 935). Similarly, if two control units are equally good matches for a treated unit, both are used and the weights used in the subsequent statistical modelling are adjusted accordingly.

Table A2: Robustness tests

	Model A1	Model A2	Model A3	Model A4	Model A5
Remedial indications	0.24* (0.11)	0.23 (0.22)	0.47* (0.21)	0.71** (0.25)	0.58* (0.25)
Government accountability	1.85** (0.69)	2.16*** (0.58)		1.53** (0.55)	1.83** (0.61)
Years since last election	-0.06 (0.04)	0.24** (0.08)		0.22* (0.11)	0.28** (0.11)
Change in government (party)				-0.16 (0.29)	
Change in government orientation					-0.52* (0.25)
Political constraints	-0.65 (0.99)	-0.53 (1.00)		1.28 (1.23)	1.94 (1.46)
Non-democracy	0.61 (0.44)	1.26 (0.89)		0.96 (0.96)	1.54 (0.94)
New democracy	0.65*** (0.19)	0.28 (0.31)		0.89 (0.48)	1.18* (0.48)
Bureaucratic capacity	0.11 (0.20)	-0.06 (0.16)		0.07 (0.15)	0.07 (0.16)
Need for legislative change	-0.84*** (0.09)	-0.76*** (0.17)	-1.56*** (0.29)	-1.09*** (0.22)	-1.15*** (0.24)
Need for jurisprudential change	-0.54*** (0.10)	-0.66*** (0.18)	-0.46 (0.39)	-0.99* (0.45)	-0.79 (0.51)
Need for executive action	-0.40*** (0.07)	-0.34 (0.21)	0.08 (0.41)	-0.45 (0.28)	-0.37 (0.28)
Need for publication/dissemination	-0.11 (0.12)	0.72 (0.43)	0.95* (0.46)	0.38 (0.46)	0.05 (0.50)
Need for practical measures	-0.56*** (0.09)	-0.77*** (0.19)	-1.03* (0.42)	-1.00*** (0.28)	-1.22*** (0.29)
Need for property return	-0.68** (0.25)	-0.92 (0.69)	-1.71*** (0.51)	-2.00*** (0.43)	-1.96*** (0.49)
Need for reopening of domestic case	-0.27** (0.10)	0.62* (0.25)	0.66 (0.47)	0.43 (0.30)	0.43 (0.35)
Need for other individual measure	-0.26*** (0.07)	-0.36 (0.20)	-0.13 (0.35)	-0.54* (0.27)	-0.61* (0.28)
Number of articles violated	-0.01 (0.11)	0.01 (0.10)	-0.18 (0.16)	-0.08 (0.13)	-0.07 (0.15)
Repetitive cases	-0.01* (0.00)	-0.00 (0.00)	0.00 (0.00)	0.00 (0.00)	-0.00 (0.00)
Linear time trend	-0.06** (0.02)				
After protocol 11	-0.07 (0.33)				
After change in CoM working methods	0.26* (0.11)				
After protocol 14	0.91*** (0.12)				
Right to life violation	-0.46 (0.24)				
Prohibition of torture violation	-0.25 (0.15)				
Right to liberty violation	0.01 (0.13)				
Right to fair trial violation	0.19* (0.08)				
Right to privacy and family life violation	-0.02 (0.08)				
Freedom of expression violation	0.04 (0.14)				
Right to effective remedy violation	-0.18 (0.14)				
Prohibition of discrimination violation	0.14 (0.19)				
Property rights violation	-0.19 (0.19)				
AIC	14156.17	1016.97	251.22	554.11	460.08
Num. events	1918	117	90	68	58
Num. obs.	2959	337	271	249	230

\*\*\* $p < 0.001$ , \*\* $p < 0.01$ , \* $p < 0.05$

significant relationship between remedial indications and quicker compliance, although the estimated coefficient is smaller in magnitude than in the models based on matching. I consider matching approach to be preferential to Model A1 because matching reduces model dependence (Ho et al. 2007). In particular, the complex strategic environment means that of some control variables are likely to interact in ways that the standard regression approach does not necessarily accommodate. By identifying pairs of cases that are as similar as possible on all the included covariates, matching reduces the risk of such model misspecification biasing the results.

Model A2 is estimated on a dataset matched using one-to-two matching. The inclusion of additional control cases reduces the magnitude of the estimated relationship between remedial orders and quicker compliance and the relationship is not statistically significant. One explanation is that the one-to-two matching does not produce the same degree of balance between the matched and unmatched cases. Despite the greater uncertainty in Model A2, the point estimates of Model A1 and A2 are very similar and both point in the direction of remedial indications being associated with quicker compliance, although the relationship is weaker than when using one-to-one matching.

Another concern is that missing data on the country-level variables exclude some cases. In particular, it excludes Bosnia-Herzegovina, which has received judgments containing remedial indications in five different judgments. The sensitivity of empirical results to missing observations has been an increasing concern for political science scholarship because observations with missing information might be systematically different from other cases (Lall 2016; 2017). To avoid listwise deletion or imputation, Model A3 is estimated on a dataset that is matched on case characteristics and dummies for the different respondent states. I first match exactly on respondent state before using genetic matching to match on case characteristics. The Cox model is stratified by respondent state. By considering only within-state variation, this model also accounts for the possibility that different states are subject to different standards by the CoM in its compliance monitoring. The relationship between remedial indications and quicker compliance is robust to considering only within-state variation.

Models A4 and A5 consider whether the relationship between remedial indications and quicker compliance is sensitive to controlling for changes in government during the implementation, using data on government composition from the Database of Political Institutions (Cruz, Keefer and Scartascini 2016). Model A4 controls for whether there has been a change in the chief executive party. Model A5 considers whether there has been change in the ideological orientation of the government (on a left-right dimension). The relationship between remedial indications and quicker compliance holds in both of these models.

## **H Robustness Checks for Interaction Effect**

The final model reported in the letter (Model 4 in Table A1) shows that the effectiveness of remedial indications is conditional on the strength of accountability institutions. This section reports the results from additional models estimated to assess the sensitivity of this interaction effect.

The accountability index is composed of several different indicators of vertical, horizontal, and diagonal constraints on the government. The ability of courts to achieve compliance with their judgments is one aspect of horizontal constraints (Coppedge et al. 2018). Although the variable only measures compliance with domestic court judgments, a potential concern is therefore that values on the accountability index is affected by the degree of timely compliance with judgments in the respondent state.

To address this concern, I re-estimate the interaction model after replacing the aggregate accountability index with each of the three subtype indices. These models also help assess whether some types of accountability institutions are particularly important for the effectiveness of remedial indications. The models are reported as models A6, A7, and A8 in Table A3. The conditional coefficients for remedial indications are displayed graphically in Figure A5.

As can be seen from Figure A5, the results when using the vertical and the diagonal subindices are similar to the results based on the aggregate index. There is, however,

Table A3: Robustness tests for Model 4 of the letter

	Model A6	Model A7	Model A8	Model A9	Model A10
Remedial indications	-0.25 (0.66)	0.62 (0.32)	-0.10 (0.72)	-0.51 (0.70)	0.54 (0.55)
Vertical Accountability	0.60 (0.49)				
Vertical Accountability * Remedial indications	0.78 (0.55)				
Horizontal Accountability		0.81* (0.34)			
Horizontal Accountability * Remedial indications		-0.01 (0.31)			
Diagonal Accountability			1.60*** (0.46)		
Diagonal Accountability * Remedial indications			0.65 (0.56)		
Government accountability				0.64 (0.55)	1.27* (0.50)
Government accountability * Remedial indications				1.06 (0.57)	0.15 (0.43)
Years since last election	0.27* (0.11)	0.28** (0.11)	0.26* (0.10)	0.28** (0.11)	0.26** (0.10)
Political constraints	1.52 (1.15)	0.80 (1.32)	2.17* (0.91)	1.31 (1.09)	2.10 (1.08)
Non-democracy	-0.49 (0.56)	0.02 (0.63)	1.07 (0.67)	0.57 (0.66)	0.24 (1.00)
New democracy	0.55 (0.33)	0.61 (0.36)	1.07** (0.39)	0.50 (0.34)	0.36 (0.29)
Bureaucratic capacity	0.12 (0.10)	0.18* (0.07)	0.09 (0.11)	0.20 (0.10)	0.15 (0.11)
Need for legislative change	-1.02*** (0.20)	-1.06*** (0.22)	-1.03*** (0.21)	-1.41*** (0.25)	-1.29*** (0.22)
Need for jurisprudential change	-0.86* (0.42)	-0.75 (0.40)	-0.84 (0.43)	-1.28** (0.44)	-0.92* (0.42)
Need for executive action	-0.50* (0.26)	-0.52 (0.27)	-0.56* (0.26)	-0.19 (0.40)	-0.27 (0.28)
Need for publication/dissemination	0.66 (0.45)	0.54 (0.42)	0.42 (0.41)	0.75 (0.49)	0.52 (0.49)
Need for practical measures	-0.62** (0.24)	-0.67** (0.25)	-0.79*** (0.20)	-0.79** (0.29)	-0.98*** (0.23)
Need for property return	-1.84** (0.56)	-1.82*** (0.49)	-2.37*** (0.52)	-2.21*** (0.47)	-2.01*** (0.43)
Need for reopening of domestic case	0.45 (0.29)	0.43 (0.28)	0.24 (0.27)	0.41 (0.31)	0.58* (0.27)
Need for other individual measure	-0.60 (0.31)	-0.52 (0.31)	-0.62* (0.30)	-1.01** (0.38)	-0.62* (0.29)
Number of articles violated	-0.13 (0.11)	-0.10 (0.12)	-0.10 (0.13)	-0.25* (0.12)	-0.08 (0.11)
Repetitive cases	-0.00 (0.00)	-0.00 (0.00)	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)
AIC	635.83	635.80	620.32	472.81	580.58
Num. events	76	76	76	61	71
Num. obs.	249	249	249	202	244

\*\*\* $p < 0.001$ , \*\* $p < 0.01$ , \* $p < 0.05$

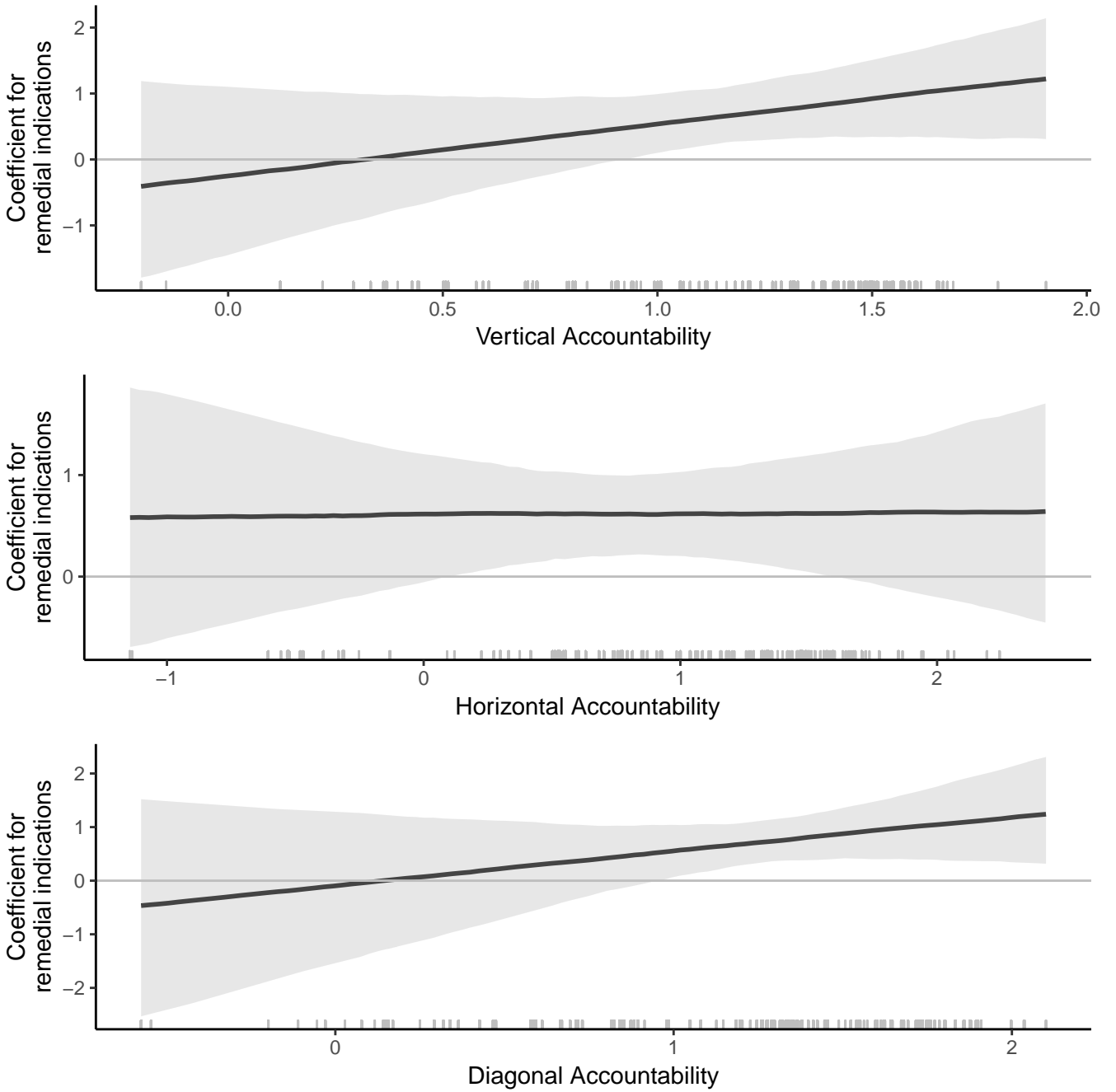


Figure A5: Coefficient for remedial indications conditional on each of the subtypes of government accountability.

no evidence that the level of horizontal accountability moderates the effect of remedial indications. These results suggest that the reported interaction effect is not driven by compliance with judicial decisions being included as one aspect of horizontal constraints. Moreover, the results show that the accountability provided by the electoral channel and the accountability provided by a free media and civil-society organizations are both more important for the effectiveness of remedial indications than the checks and balances between different branches of government.

There are relatively few cases in which remedial indications are provided in judgments against respondent states with very strong or very weak accountability institutions. This pattern is consistent with the theoretical argument: If remedial indications are unlikely to be effective for the lowest-accountability states and failed remedial indications are costly for the Court, then the judges will be less likely to provide remedial indications in judgments against these states. For the highest-accountability states, the Court generally faces less of a compliance problem. These states are moreover high-capacity states and that the Court may wish to allow some leeway in implementation process. Remedial indications are therefore also less frequent in judgments concerning the highest-capacity states.

One concern is that the interaction between remedial indications and government accountability may be driven by relatively few judgments containing remedial indications against the lowest/highest accountability states. Models A9 and A10 address this concern. Conditional coefficients for remedial indications based on these models are reported in figures A6 and A7, respectively.

Model A9 is estimated after excluding observations below the 10th and above the 90th percentile on the government accountability index. As can be seen from Table A3 and Figure A6, this restriction strengthens the estimated interaction effect. It is therefore not the case that the interaction effect is driven by a few extreme observations.

Model A10 is estimated after dropping observations that are particularly influential for the estimated interaction term. Specifically, I drop observations with  $dfbetas$  larger than  $abs(\frac{2}{\sqrt{n}})$ . This restriction reduces the magnitude of the estimated interaction effect.



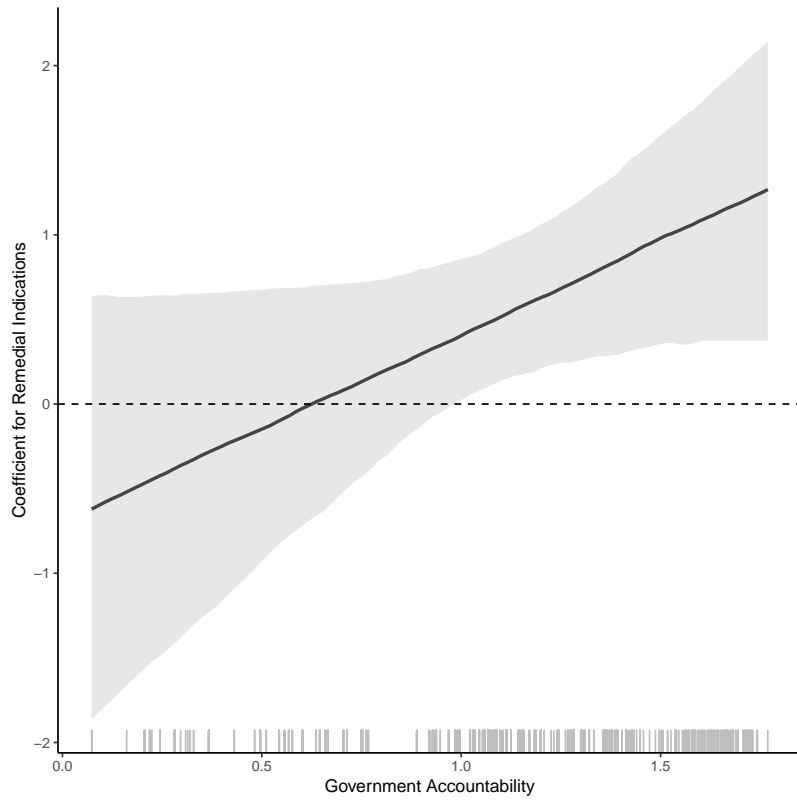


Figure A6: Coefficient for remedial indications conditional on government accountability after cutting the tails of the government accountability measure

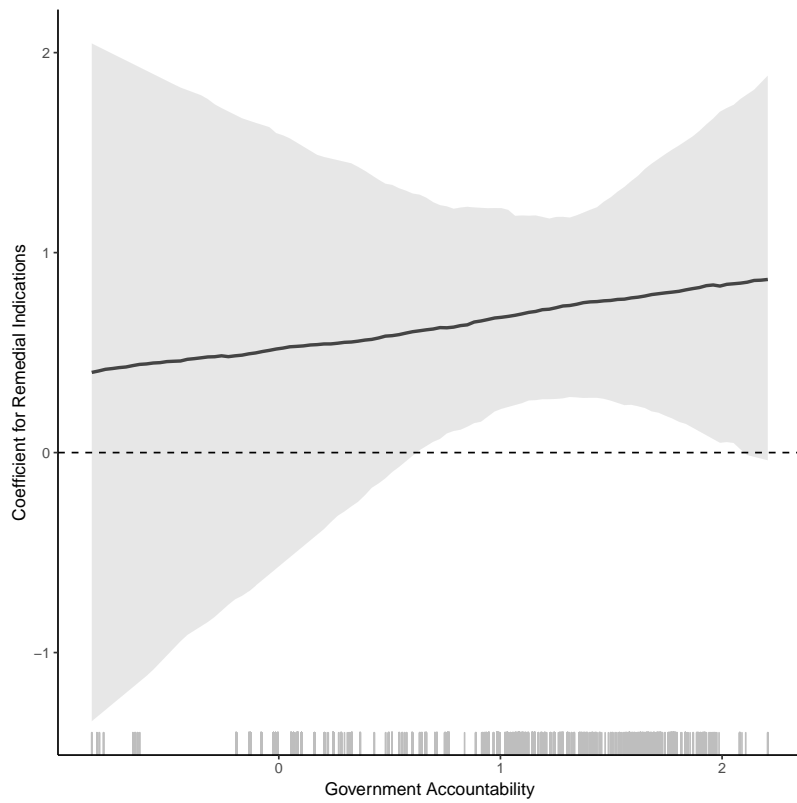


Figure A7: Coefficient for remedial indications conditional on government accountability after dropping influential observations

However, as can be seen in Figure A7, also this model supports the conclusion that remedial indications tend to be effective only if the accountability institutions in the respondent state are sufficiently strong.

## I Additional Interaction Effects

There is robust evidence that the ECtHR's use of remedial indications have on average contributed to quicker compliance with some of the ECtHR's most challenging judgments, but that the relationship between remedial indications and quicker compliance hinges on the presence of domestic institutions that enable pro-compliance actors to hold governments accountable. An important question is whether the effect of remedial indications is also influenced by other contextual factors. Answering this question is important both for understanding the conditions that enable courts to use remedial indications to promote compliance and for understanding the mechanisms that link remedial indications to quicker compliance.

In addition to helping hold governments accountable, remedial indications may facilitate quicker compliance by preventing disagreement within a responding governments concerning how to implement the judgment (Baum 1976: 94, Spriggs 1996: 1124). The chances of such disagreements reducing the likelihood of prompt implementation may be greatest in contexts where political power is divided among multiple veto-players with diverging political preferences (Tsebelis 1995; 2002). At least in the short term, the difficulty of achieving agreement between such veto-players can stall the implementation process in cases where the judges have not specified necessary remedies (Voeten 2014).

Remedial indications may therefore be expected to be particularly helpful in judgments against states with multiple veto-players with diverging preferences. To evaluate this expectation, I estimate model A11 in which remedial indications are interacted with the level of political constraints (from Henisz 2000, Henisz 2002). The model is reported in Table A4 and the conditional coefficient for remedial indications is displayed in Figure A8.

Table A4: Additional interaction models

	Model A11	Model A12
Remedial indications	0.86 (0.93)	0.04 (0.46)
Political constraints	1.36 (1.95)	1.15 (1.04)
Remedial indications*Political constraints	-0.35 (2.06)	
Bureaucratic capacity	0.07 (0.13)	-0.07 (0.17)
Remedial indications*Bureaucratic capacity		0.24 (0.17)
Government accountability	1.41** (0.49)	1.47** (0.49)
Years since last election	0.24* (0.10)	0.25* (0.10)
Non-democracy	0.80 (0.84)	0.83 (0.86)
New democracy	0.72* (0.35)	0.70* (0.35)
Need for legislative change	-1.04*** (0.20)	-0.98*** (0.20)
Need for jurisprudential change	-0.79* (0.39)	-0.79* (0.39)
Need for executive action	-0.51* (0.26)	-0.55* (0.26)
Need for publication/dissemination	0.44 (0.43)	0.43 (0.42)
Need for practical measures	-0.68** (0.22)	-0.67** (0.22)
Need for property return	-1.99*** (0.45)	-2.03*** (0.46)
Need for reopening of domestic case	0.40 (0.27)	0.45 (0.27)
Need for other individual measure	-0.59* (0.27)	-0.60* (0.27)
Number of articles violated	-0.11 (0.11)	-0.10 (0.11)
Repetitive cases	-0.00 (0.00)	-0.00 (0.00)
AIC	630.05	628.73
Num. events	76	76
Num. obs.	249	249

\*\*\*  $p < 0.001$ , \*\*  $p < 0.01$ , \*  $p < 0.05$

Figure A8 provides no support for the expectation that the political constraints in the respondent state moderates the effect of remedial indications. One explanation may be that remedial indications facilitate quicker compliance primarily by enabling compliance monitoring rather than by avoiding disagreement within respondent governments.

As discussed in the letter, the bureaucratic capacity of the respondent state can be important for judges' decision to indicate specific remedies. Two important explanations are (1) that compliance is relatively more costly for states with low bureaucratic capacity (see also Staton and Romero forthcoming) and (2) that the informational disadvantage of the Court will be smaller relative to these states. Yet, the ECtHR also provides remedial

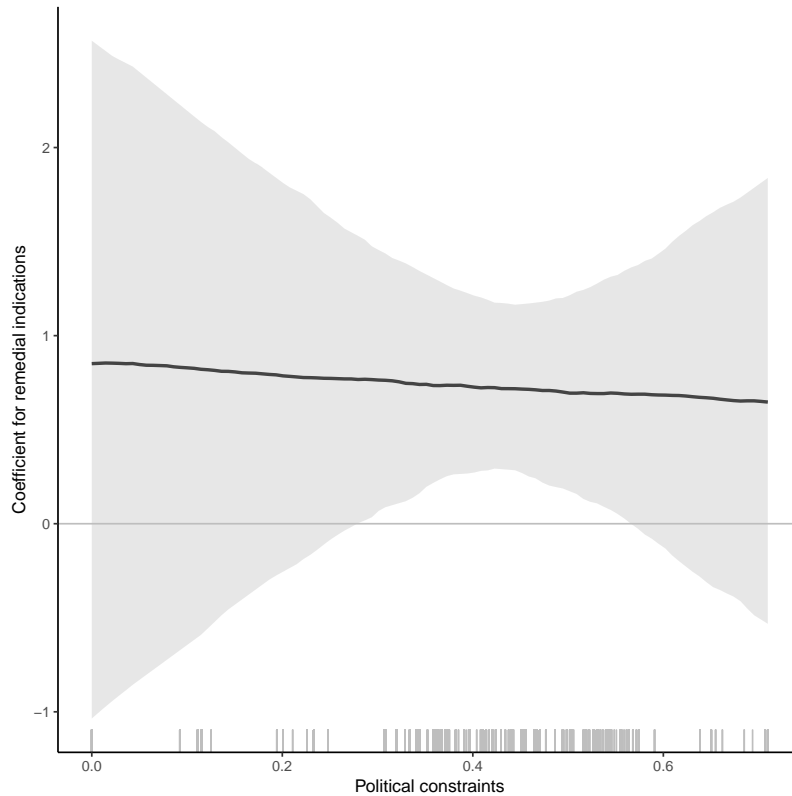


Figure A8: Coefficient for remedial indications conditional on political constraints (Model A6). Shaded area indicates the 95 per cent confidence interval.

indications against high-capacity states, such as in the 2012 judgment in the case of *Lindheim and Others v. Norway*. An important question is whether remedial indications are less effective when provided in judgments against such high-capacity states.

On the one hand, remedial indications in judgments against high-capacity states could be detrimental to compliance if the Court is more likely than respondent states' bureaucracies to indicate remedies that are inadequate for repairing the identified violations. On the other hand, the Court may be expected to refrain from indicating remedies in the cases in which informational challenges would lead it to indicate remedies that inadequate. I therefore expect bureaucratic capacity to be more important for the decision to provide remedial indications than as a condition for their effectiveness in the cases where they are provided.

Nevertheless, remedial indications are interacted with the level of bureaucratic capacity in Model A12 in Table A4. The conditional coefficient for remedial indications at different levels of bureaucratic capacity is displayed in Figure A9. The figure suggests

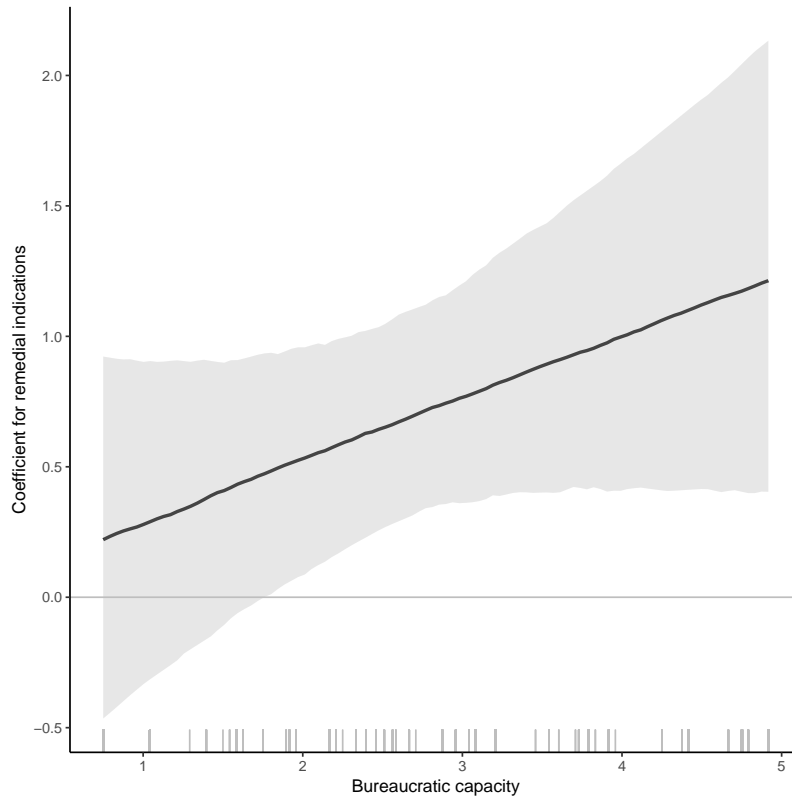


Figure A9: Coefficient for remedial indications conditional on bureaucratic capacity (Model A7). Shaded area indicates the 95 per cent confidence interval.

that remedial indications are in fact more effective when provided in judgments against high capacity states. At very low levels of bureaucratic capacity, such as for Albania and for Bulgaria, the relationship between remedial indications and quicker implementation is statistically insignificant. A likely explanation is that for these states, there can be important managerial obstacles to compliance even if the remedies have been indicated by the Court.

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