



REPUBLIC OF
SLOVENIA



HUMAN
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How has Slovenia managed to cut down the number of non-implemented judgments by setting up a strong structure at the domestic level?

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*Enhancing NHRIs' capacity for effective implementation
of Judgments of the European Court of Human Rights*
Webinar 1, Thursday 10th September, 11.00-12.00 CET
“Why should implementation of ECtHR judgments matter
to NHRIs?”



Why ECtHR judgments implementation should matter to NHRIs?

1. International human rights argument

1993 Paris Principles established a responsibility of NHRIs

“[t]o promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation.”
(Point 3.b.)

Article 46 of the ECHR provides that the State Parties

“undertake to abide by the final judgment of the [European] Court [of Human Rights] in any case to which they are parties”.

2. The rule of law argument

A Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (A/RES/67/1, adopted on 24 September 2012, “We reaffirm that States shall abide by all their obligations under international law, and stress the need to strengthen support to States, upon their request, in the national implementation of their respective international obligations through enhanced technical assistance and capacity-building.” (Point 37.)

A Regional Action plan to the GANHR Marrakesh Declaration, developed by ENNHRI in January 2019 determines the rule of law among NHRIs’ “key messages and practices”



Key elements for the efficient implementation of ECHR judgments in a country

Political will

General political will

- regarding the respect of human rights and the rule of law, and
- recognising the importance and the willingness to respect the ECtHR judgments.

Specific political will regarding every single judgment of the ECtHR.

Political will is essential to ensure the execution of “difficult” cases. The adoption of the necessary measures to execute cases like *Kurić* or *Alisić v. Slovenia* was, for example, not simple in view of the scale of economic and political questions involved.

Administrative capacity

- efficient and professional public administration,
- proactive approach,
- clear responsibility, leadership,
- proper coordination of activities,
- cooperation among various actors,
- education and training,
- knowledge of Strasbourg enforcement procedure – individual and general measures,
- preparation of Action Plans and Action Reports.



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Good practice example: Slovenian approach

- The Human Rights Ombudsman of the Republic of Slovenia (HRO) as **Slovenian NHRI promotes the implementation of ECtHR judgments at various occasions, including through the views and recommendations, included in its annual reports.**
- A political will to respect human rights and the rule of law, including regarding the enforcement of judgments of international courts and tribunals, including of ECtHR, was crucial.
- Since 1995 Slovenia paid several hundred million Euros (of just satisfaction, compensations and costs of proceedings), went through system reforms and even envisaged to build a new prison in Ljubljana to enforce the final ECtHR judgments.
- Since the establishment of a strong administrative structure at the end of 2015, three governments changed, however effective and prompt enforcement of ECtHR judgments remains one of the priorities of the Ministry of Justice.
- **A positive trend can change fast or at any time, therefore it remains the role of the HRO to further promoting the need for consistent and timely enforcement of the ECtHR judgments (see Recommendation No. 2 in HRO Annual Report for 2019).**



Evolution: from *ad hoc* to holistic approach

***Ad-hoc* approach**

A concrete political will to fully implement three publicly exposed ECtHR judgments:

- in ***Lukenda v. Slovenia case*** (a group of 264 cases) through the adoption of a Protection of Right to Trial without Undue Delay Act in 2006;
- in ***Kurić and Others v. Slovenia case*** (pilot judgment) through the adoption of an Act Regulating the Compensation for Damage Sustained as a Result of Erasure from the Register of Permanent Residents in 2013;
- in ***Ališič and Others v Slovenia case*** (pilot judgment) through the adoption of an Act Regulating the Enforcement of the European Court Of Human Rights Judgment in Case No. 60642/08 in 2015.

Holistic (integrated) approach

General political will + building a strong structure at the domestic level:

- **2014/12: amendments to Public Administration Act** (MoJ was tasked to guide the implementation of judgments of international courts)
- **2015/12: by Governmental Decree**
 - IG-WG for the coordination of enforcement of the ECtHR judgments was established,
 - MoJ was tasked to establish a specialised support unit for human rights and the enforcement of ECtHR judgments,
 - MoJ was tasked to draft amendments to the Human Rights Ombudsman Act to be in compliance with the 1993 Paris Principles.
- **2016:** new structures became operational,
- **2017: Human Rights Ombudsman Act** was amended.



About the new enforcement structure

Inter-Governmental Working Group for the coordination of the enforcement of judgments of the ECtHR

Chair: State Secretary of the Ministry of Justice (MoJ) – political level-

Members: Representatives of the MoJ, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Finance, Ministry of Labour, Family Social Affairs and Equal Opportunities, State Attorney's Office, HRO, Supreme Court of the Republic of Slovenia.

A support Project Unit on the coordination of the enforcement of ECtHR judgments within the Ministry of Justice (MoJ)

- has a chair and approx. 4-5 additional members;
- various tasks, *inter alia*, include legal analyses of each case regarding the needed individual and general measures (after receiving an opinion from the Agent), coordination of work and measures to be taken at different levels, including legislative proposals, drafting Action Plans and Action Reports, cooperation with the CoE Department for the Execution of Judgments of the Court.

State Attorney's Office

- payments of just satisfaction and costs of the proceedings,
- has two representatives in IW-WG,
- translation of the judgments into the Slovene language.

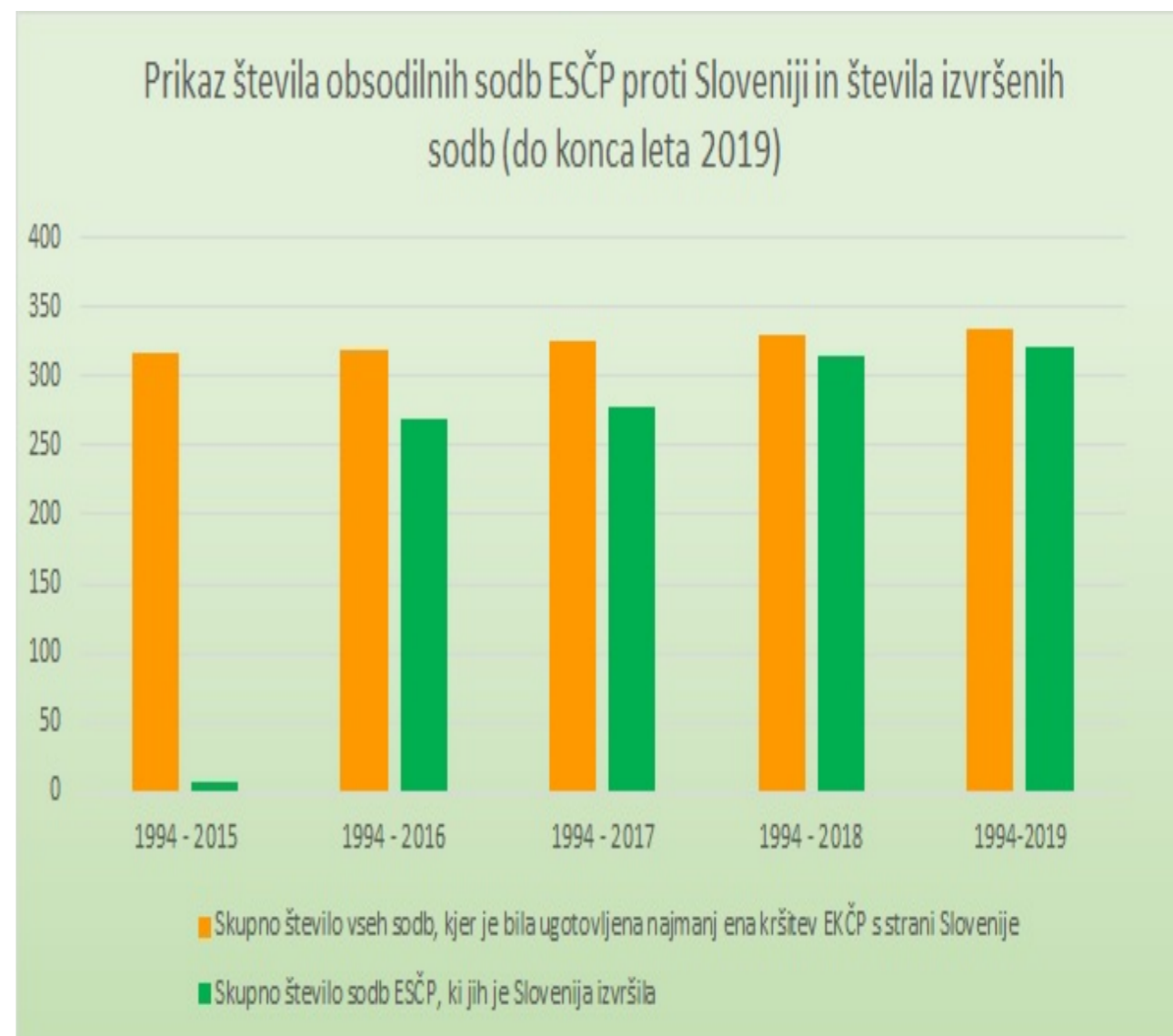
Human Rights Ombudsman

- monitors the implementation process and gives its opinions when necessary,
- has two representatives in IG-WG.



The results so far...

Year\ ECtHR Judgements	Number of unimplemented ECtHR judgments by Slovenia
End of 2015	309
End of 2016	49
End of 2019	12
September 2020	6 (+2)



Source: <https://www.gov.si teme/izvrsevanje-sodb-evropskega-sodisca-za-clovekove-pravice/>



Conclusions: Different approaches – Same attitude

No blueprint solution or common recipe for all countries. Different approaches are possible:

- strong domestic structure,
- Strasbourg advocacy, including Rule 9 submissions,
- a strong and independent NHRI helps to promote a culture, where the international human rights instruments and the rule of law, in general, are taken seriously.

NHRIs as “watchdogs” – three levels of NHRI advocacy:

1. Creating a **culture of human rights**, part of which is a need to enforce final judgments of the ECtHR - contributing to a political will;
2. **Calling for the enforcement of concrete final ECtHR judgments** as well as for a **holistic approach** toward the implementation of ECtHR judgments;
3. **Calling for a proactive approach** of the Government and other decision-makers to cope with the implementation issue and to **ensure the administrative capacity of a state.**