

# Compliance with the Inter-American Court of Human Rights

## Effective Dates of Compliance

January 30, 2020

Aníbal Pérez-Liñán and Ana Olavarrieta Trejo

Reparations Design and Compliance Lab

University of Notre Dame

During the second semester of 2019, we collected data on effective dates of compliance for all reparation measures ordered by the IACtHR.<sup>1</sup> We extracted this information from the Court's supervision resolutions. The new evidence allows us to analyze how long states take to comply with reparation measures based on the actual date of implementation—as opposed to the date of the resolution acknowledging such implementation. It also allows us to analyze how long the Court takes to acknowledge state compliance, and how the time to acknowledgment has shortened over time.

The following pages present a summary of how we collected the data, an analysis of the time elapsed between state compliance and the Court's acknowledgment (before and after the creation of the Supervision Unit), and a comparison of the estimated times to compliance when we use the effective year versus the year of the supervision resolution. Our main findings are:

- The text of supervision resolutions is clear enough to allow for a reasonable identification of the effective year of compliance in all cases.
- The creation of the Supervision Unit in 2015 shortened the period lapsed between state compliance and formal acknowledgment by, on average, six to nine months.
- Statistical analyses yield slightly different estimates if we employ the date of the Court's resolution or the date of effective implementation to estimate the Expected Time to Compliance. However, substantive conclusions (e.g., regarding different types of reparation measures) do not change significantly. This is reassuring with respect to prior studies.

---

<sup>1</sup> We are indebted to Meghan O'Leary for her collaboration in this study.

## Documenting Effective Dates of Compliance

The data-collection process for this project required an analysis of all cases and resolutions issued by the IACtHR between 1989 and 2019. During our first round of data collection in 2018-19, we gathered information for each individual reparation measure ordered by the Court (almost 1800 measures) and tracked their compliance record over time. We documented the years when the IACtHR issued the ruling, and when it issued subsequent resolutions documenting partial or full compliance. In addition, we identified the type of reparation measure based on the Court's criteria (Restitution, Rehabilitation, Satisfaction, Guarantees of non-repetition, Investigation and sanctions, Indemnifications, Legal costs, and Contributions to the Court's assistance funds).

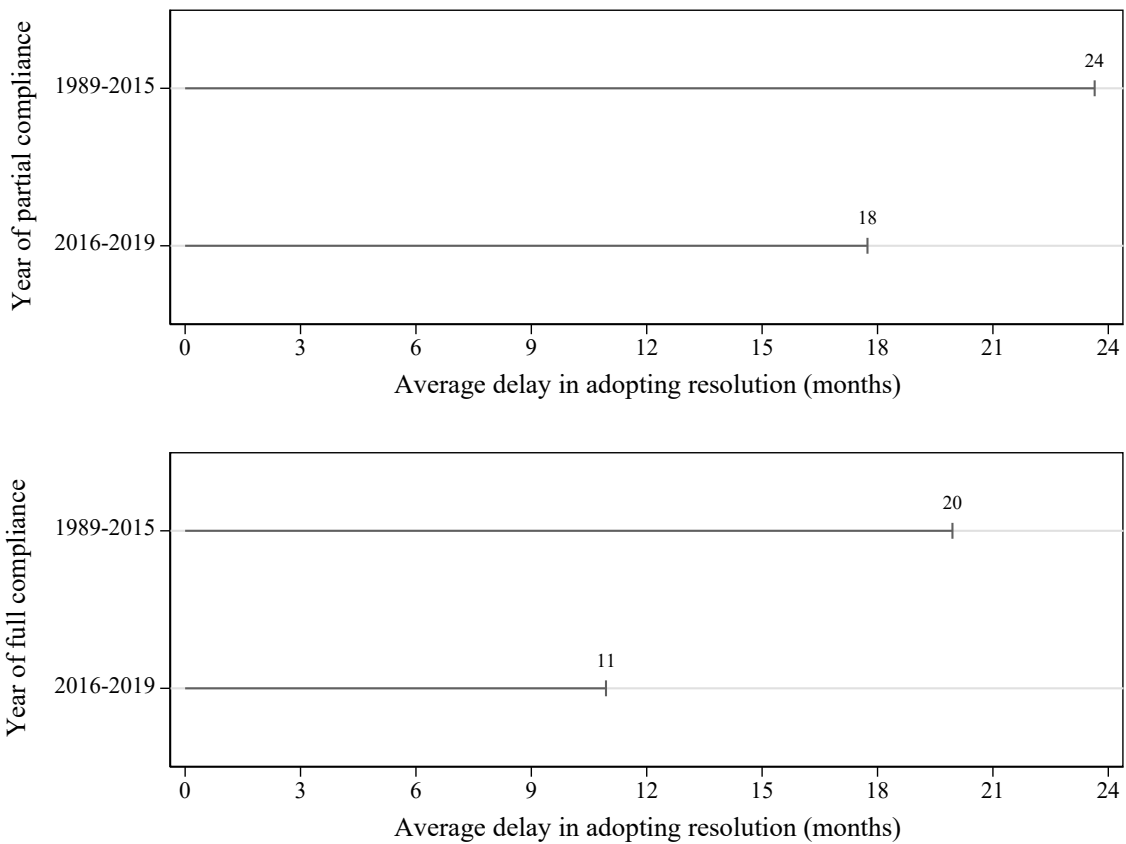
However, because there tends to be a delay between the time when the state implements an order and the time when the Court issues the respective resolution, we conducted a second round of data collection in late 2019 to refine our chronological measures of compliance. We analyzed the text of each resolution to identify years of *effective* compliance, meaning the years in which the act of compliance actually took place. These years can be difficult to pinpoint because of the continuous nature of the implementation process. Because of this challenge, we followed a set of rules to ensure consistency in the coding of all cases:

1. If the Court has acknowledged partial or full compliance in a resolution, there must be a year of effective compliance (partial or full) in our database as well.
2. The first event of compliance noted in the narrative of the resolution reporting partial compliance determines the date of *effective* partial compliance.
3. The last event of compliance noted in the narrative of the resolution reporting full compliance determines the date of *effective* full compliance.
4. If the first resolution acknowledging compliance just reports a lengthy process leading to full compliance, the first event of the sequence determines the year of effective partial compliance, and the last event determines the year of effective full compliance. For example, if a reparation calls for the payment of indemnifications and the payment is made in segments, the first payment would determine the year of effective partial compliance and the last payment would determine the year of effective full compliance.

### Supervision: Time to Acknowledge Compliance

Information about the timing of effective compliance allows us to calculate the number of years elapsed between the moment when states honor the rulings of the IACtHR and the moment when the Court issues a resolution acknowledging those efforts. We calculated this indicator separately for resolutions reporting partial and full compliance. In addition, we calculated both indicators for two periods: before the creation of the Supervision Unit (1989-2015) and after its creation (2016-2019). The results, summarized in Figure 1, indicate that the IACtHR has acknowledged state efforts within two years on average. Reports of partial compliance historically took about 24 months, shortened to 18 months after 2015. Similarly, reports of full compliance traditionally took 20 months, shortened to 11 months after 2015.

Figure 1. Time to Acknowledge Compliance, by Period

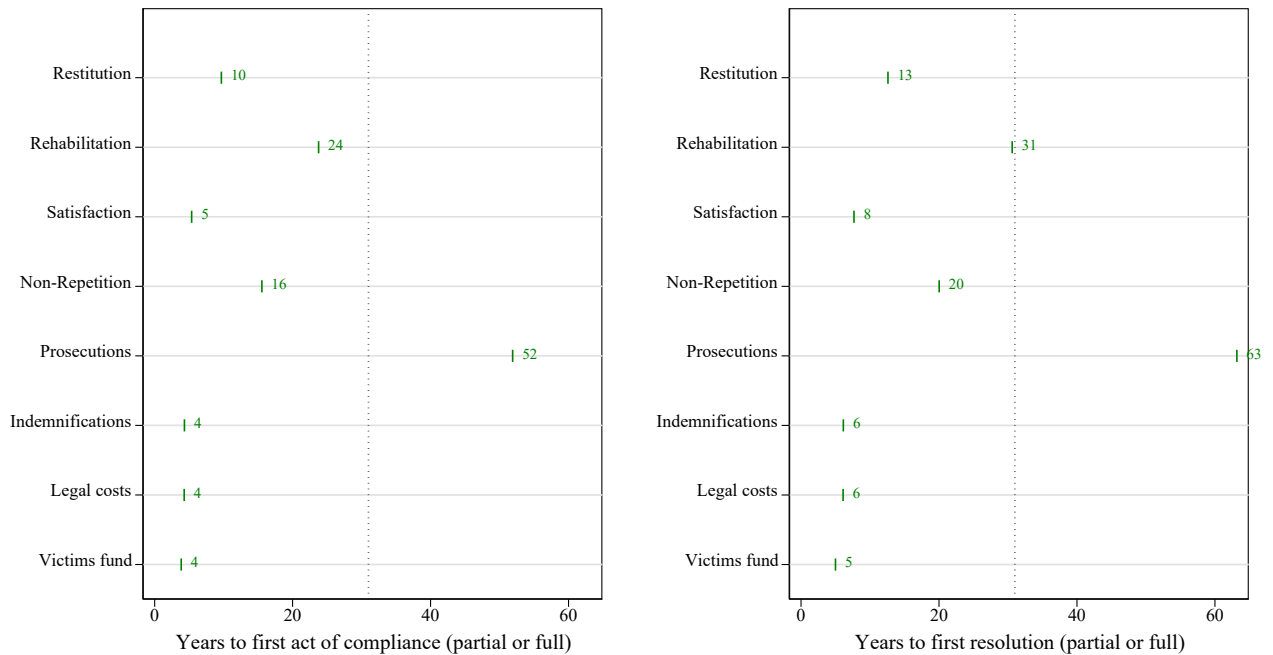


## Implications: Differences when Assessing Expected Time to Compliance

The availability of more precise information for dates of effective compliance allows for better statistical estimates in duration models. However, because the IACtHR rarely delayed too long in reporting compliance, the difference between estimates is substantively modest.

Figure 2 compares statistical estimates of Expected Time to Compliance (ETC) for different types of reparation measures, using the dates of effective compliance (left panel) and the dates of the resolution (right panel) to document the timing of the event.<sup>2</sup> Reparation measures with a high probability of compliance, like indemnifications, display modest differences. The expected time to compliance ranges between 4 years (for the effective payment) and 6 years (for the resolution). This difference is not statistically significant ( $p > .05$ ).

Figure 2. Expected Time to Compliance (Effective and Reported), by Type of Reparation



<sup>2</sup> Estimates based on a multilevel, complementary log-log estimator, with random effects by country and legal case, in which the type of reparation is the sole predictor. ETC is the inverse of the average expected probability. The vertical line in Figure 2 reflects the age of the oldest cases.

The gap between ETC estimates is apparently wider for other reparation types, such as measures of rehabilitation or prosecutions. For example, the ETC for prosecutions is 52 years if we consider the time of the event and 63 years if we consider the time of the resolution. However, these extremely long time horizons simply reflect a very low probability of compliance for this category. The low probability makes estimates uncertain, and thus the gap between the two estimates, although apparently large, is statistically insignificant ( $p > .05$ ).

Information for the date of effective compliance provides a more accurate assessment of state efforts to implement the rulings of the Inter-American Court. For this reason, researchers should use this information whenever available. At the same time, our analysis indicates that the substantive conclusions of prior studies using the date of resolutions as a proxy for the date of compliance remain valid. Although there may be marginal differences in particular estimates, the differences are unlikely to be significant.