

EXECUTION OF ECTHR JUDGMENTS - SLOVENIA

MAG. ROBERT GOLOBINEK



24 OCTOBER 2024

POINTS

- Intro
- Coordination of Execution of ECtHR judgments in SLO: PS ESČP / MDS ESČP
- Execution of the judgment in case Q and R & CoE project

1. INTRO

EXECUTION OF ECtHR JUDGMENTS

- ECtHR judgment: Legal obligation for a CoE Party (and its authorities): article 42 ECHR
- Not a direct impact – process of execution / implementation
- MoJ coordination of execution
- Q and R – Action report (10 October 2024)

INTRO

EXECUTION OF ECTHR JUDGMENTS – EXAMPLE SLO (SCOPE)

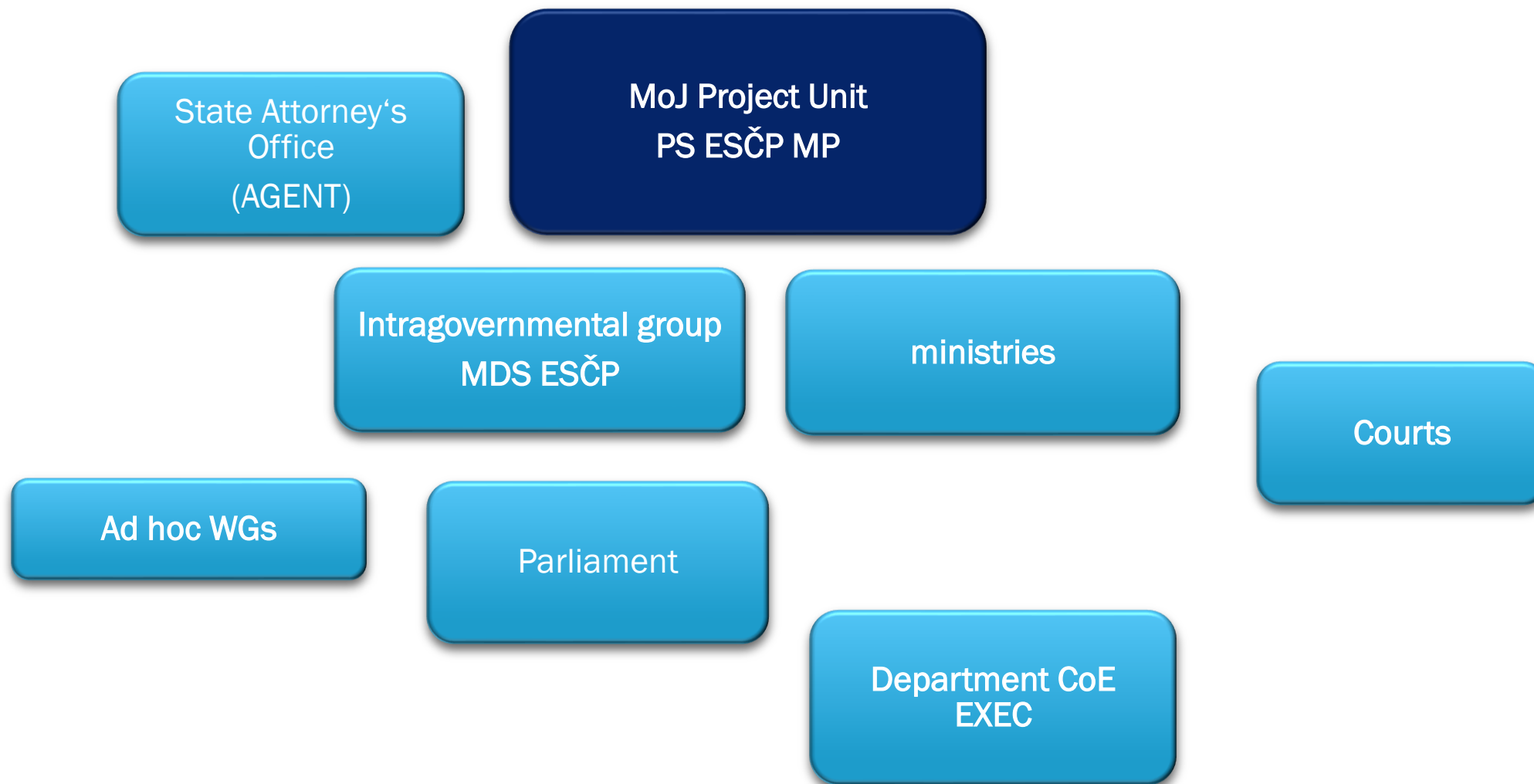
Število pritožb in sodb zoper R Slovenijo pred ESČP



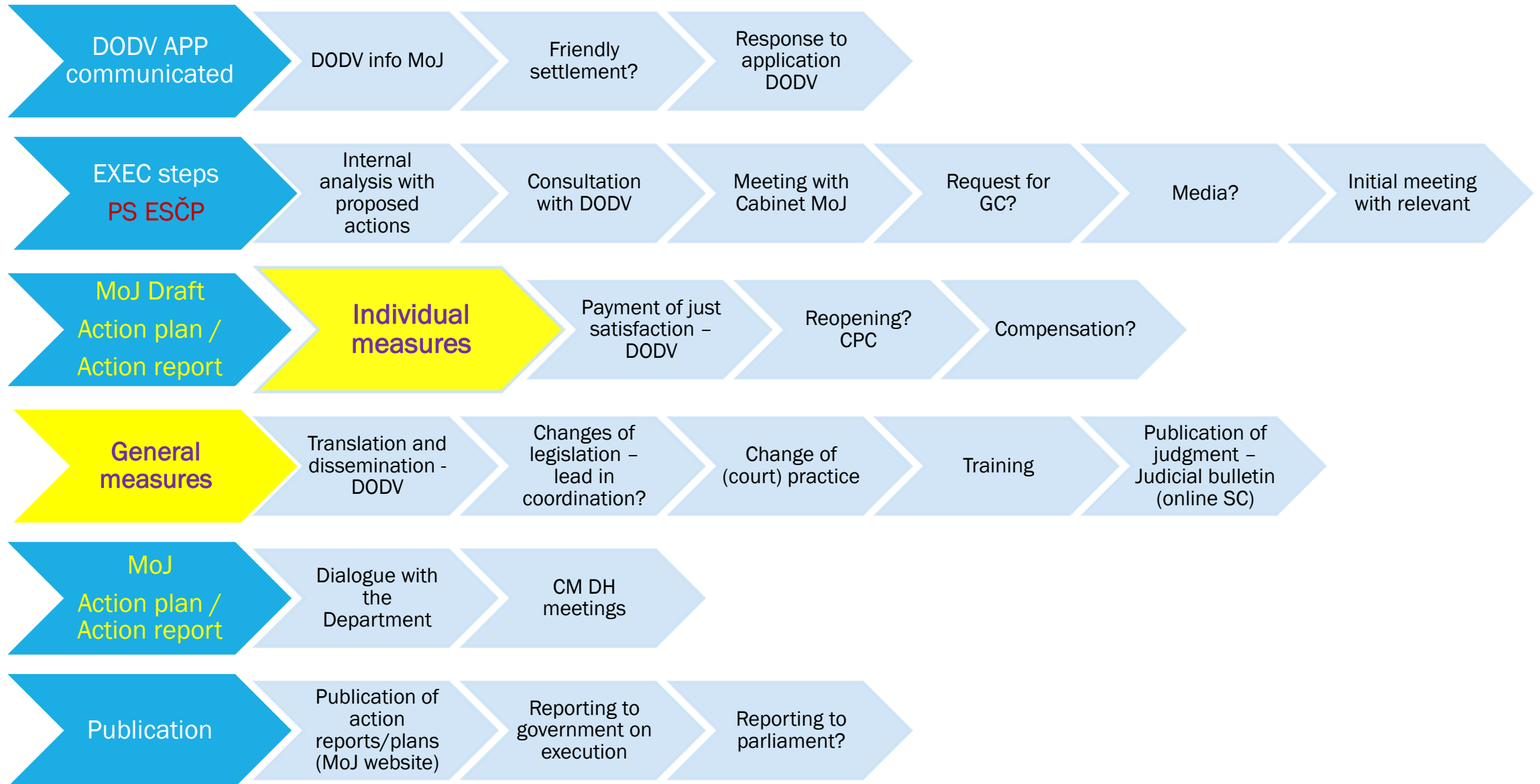
SLO	2023	2022	2021	2020
Communicated app.	10	13	5	8
Inadmissible app. /no violation	5	6	7	2
Judgments -Violation	2	4	2	2
FinRes EXEC	2	3	5	7
5 (settle)				

Total judgemnts - violation	349
pending	5

2. COORDINATION OF EXECUTION - SLO



THE COORDINATION PROCESS – PS ESČP MP



3. ECTHR JUDGMENTS (MINORS IN JUDICIAL PROCEEDINGS)

ECtHR judgment Case A.V.:

judgment **9.4.2019**, Action report 26.2.2020 (closed)

Violation of Art 8 ECHR (2003 – 2011): family life;

- applicant was not able to have contacts with his children;
- Social work center failed in supporting partners (one of them refusing the contacts)
- Court did not supervise CSD inaction and did not order family therapy.

Measures

- New Family code (2017-2019)
- Social security act amended (2018)
- Implementation / practice: CIP Trainings on Family code (judges, CSD)
- SCSD trainings for CSD

ECtHR judgment Case Q and R:

judgment **8.2.2022**, Action report 10.10.2024

Violation of Art 6 ECHR:

- **significant delays** due to inadequate provision of **experts of clinical psychology** or their excessive workload (§§ 17, 26, 71, 79);
- court's failure to appoint a **special guardian** and examine an expert, which resulted in the remittal of the case following the constitutional complaint (§ 79);
- adverse effect of the **Covid – 19** on the operation of the courts (case not classified as urgent (§ 80).

NO violation of Art 8 (family life; decision on contacts with children)

ZADEVA Q IN R V. SLO – KOORDINACIJA

Koordinacija in identifikacija ukrepov:

sodba ESČP Q in R (8.2.2022)

- 11.3.2022: PS ESČP sestanek z MZ, MDDSZ, UprS, DODV
 - 2022: Usklajevanje z MP MDS o položaju otrok
 - Oktober 2022: MDS ESČP sestanek (točka glede QinR)
 - **30.1.2023: Akcijski načrt**
 - Oktober 2023: MDS ESČP sestanek (točka QinR) – udeležba DEJ CoE
 - 2024: Draft Akcijsko poročilo – usklajevanje z MZ, MDDSZ, MP (MDS otroci)
 - September 2024: Dodatno usklajevanje MZ-Zbornica Kliničnih psi in MP glede usposabljanja spec. za izvedenstvo
-
- **Akcijsko poročilo, 10.10.2024**

Q IN R V. SLO – ACTION REPORT

Action report (10.10.2024) – under assessment of DEJ CoE

Individual measures:

- The (pending) **judicial proceeding is final** (administrative court decision in December 2022 after Constitutional court remitted the case, delays of Clinical psychologists opinion; Supreme court rejected the remedy in September 2023.

Applicant was denied a permission to foster her grandchildren as the court was of the view that this would not be in the best interest of children.

- **just satisfaction paid** (non-pecuniary damage) 3.000 EUR; 3.500 EUR for costs and expenses.

General measures:

- Short, mid and long term

Q IN R V. SLO – ACTION REPORT (1)

Lack of clinical psychologists and court experts

- MoH: Funds for **additional 100 specializations** in clinical psychology (2021-2023 + 4y ongoing).
- Chamber of clinical psychologists: regular **trainings including topics on court expertise**, to promote and attract new court experts.
- 2019: condition for court expert: 6y working experience: specialisation **(4y) is now included**.
- 2023 MoJ: **list for the courts of different court experts** in family related disputes (49), including clinical psychologists (25), psychiatrists (12), pedopsychiatrists (3), family psychologists (2) and social work (7)
- 2023: renewed **descriptions of expert fields** by Expert Council to assist courts in choosing adequate expert's profile
- 2023: The Chamber: a **list of 23 ad hoc experts** (not court experts) to provide expert work
- 2023: The Chamber is now able to provide **expert opinions** in court cases as an expert institution (change of statute)

Q IN R V. SLO - ACTION REPORT (2)

Delays in the preparation of expert opinions

- March 2024: experts working in deficit areas (incl family): +30% payment for a written opinion within a time limit (change of Rules on Court Experts...)
- Barnahus can be used for conducting interviews by court expert
- 2025 plan: MoJ: electronic database on available court experts (court selection of available ones)

Q IN R V. SLO - ACTION REPORT (3)

Comprehensive issues and approach

- October 2022: MDG MoJ (MP, MDDSZ, MZ, VSRS, Zbornica, VČP, SCSD...) tasked to identify reasons for lengthy court proceedings in civil matters involving children and to find appropriate solutions.
- (2023-2026) EU+CoE project *“Ensuring the Best Interests of the Child in Civil Court Proceedings*

Training

- 2023: trainings by Judicial Training Centre on *"Court expertise in family matters"* (the role of experts and to improve the quality of expert opinions and reports from social work centers, right questions by judge;
- 2022: trainings to improve quality of opinions of the social work centres.

Q IN R V. SLO - ACTION REPORT (4)

Appointment of special guardians

- new Family Code: transfer of competence to civil courts. Discretion of the judge to appoint a special guardian (*kolizijski skrbnik*). Generally applied in practice.

Measures relating to the COVID – 19 pandemic

- No more, thank you.

Publication and dissemination measures

- Judgment sent to VSRS, UprS and ministries (MP, MDDSZ, MZ).
- Translation of the judgment at DODV
- “*Sodnikov informator*”, No. 4/2022 of May 2022.

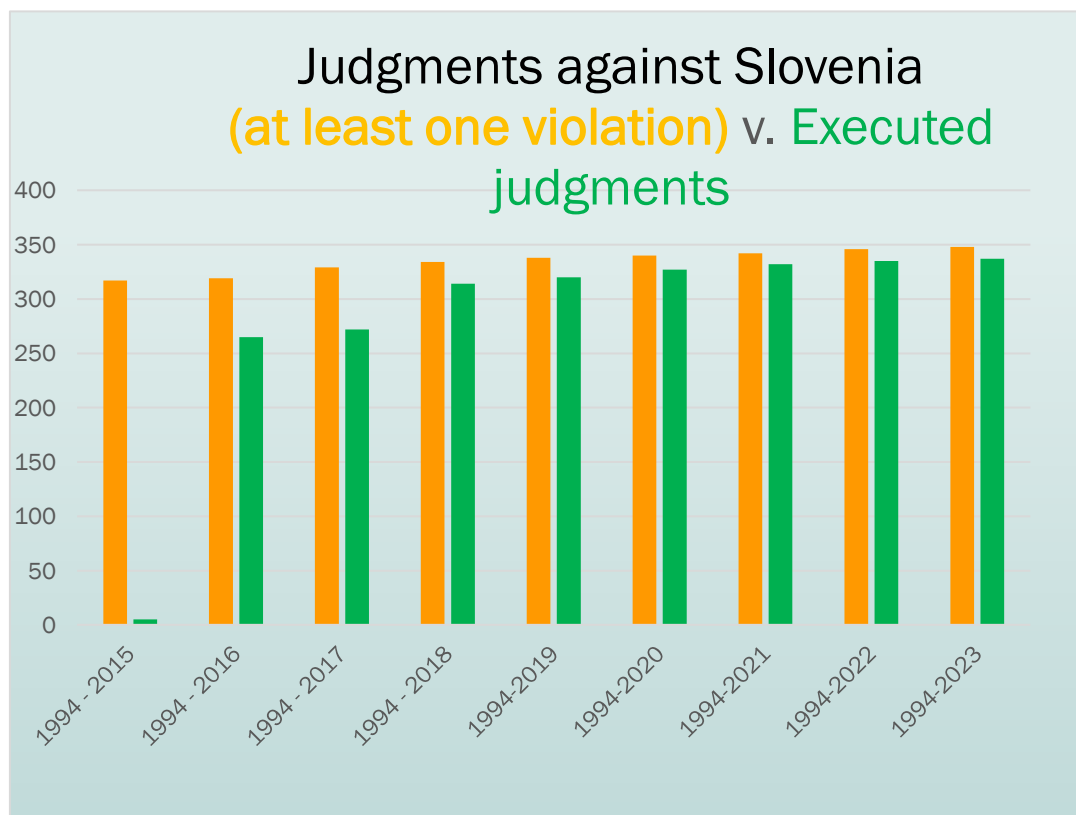
3/1 MINORS AND THE COE PROJECTS

- ECtHR Judgment Q and R – **limited** to violation in the specific case: **measures for execution (and supervision)**
- New MoJ and CoE/EU Project: **Ensuring the best interests of a child in civil court proceedings (2023-2026)**
 - comprehensive and horizontal issues /approach
 - continued efforts of SI for improvements
 - (EXEC of judgment: **input** to the work of the MDS MP and the project)
- Positive experience in COE project:
Improving the juvenile justice system and strengthening the education and training of penitentiary staff in Slovenia (9.2021 – 12.2023)
- CoE reliable project partner!

CONCLUSIONS: AWARENESS/PROMOTION/TRANSPARENCY

Info on execution process in SLO

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



Samodejno shranjevanje pregledsodbescprprotislovenjivetabelanaspletu22.dec.2022

Iskanje (Alt+L) Maja Velic

Datoteka Osnovno Vstavljanje Postavitev strani Formule Podatki Pregled Ogled Pomoč

Priprepi Arial 9 A⁺ A⁻ Splošno Pogojno oblikovanje Oblikuj kot tabelo Slogi celic Vstavi Izbrisi Razvrsti in Poišči in filtriraj Občutljivost

Odložišče Pisava Poravnava Število Slogi Celice Urejanje Občutljivost

Št. pritožbe	Zadeva	Datum sodbe	Datum dokončnosti	Ugotovljena kršitev Evropske konvencije o človekovih pravicah (navedba členov in kratak opis)	Akcijsko poročilo (oz. načrt)	Resolucije Odbora ministrov Sveta Evrope (datum sprejetja resolucije)
29462/95	REHBOCK	28.11.2000	28.11.2000	3, 5. in 8. člen (policijsko nasilje, neučinkovita preiskava, neupravičen nadzor nad komunikacijo)	Informacija o sprejetih ukrepih - priloga resolucije	CMResDH(2009)137 (3.12.2009)
26828/06	KURIC IN DRUGI	26.06.2012, 12.03.2014	12.03.2014	8. in 13. člen (pilotska sodba v zadevi t.i. ubrivanjah)	Zadnje akcijsko poročilo	CMResDH(2016)112 (25.05.2016)
23032/02	LUKENDA SKUPINA (264 sodb)	6.10.2005	6.01.2006	6. in 13. člen (dolgotrajno sojenje)	Revidirano akcijsko poročilo	CMResDH(2016)354 (08.12.2016)
20881/10	MLADINA D. D. LJUBLJANA	17.04.2014	17.07.2014	10. člen (kršitev svobode izražanja)	Revidirano akcijsko poročilo	CMResDH(2017)111 (05.04.2017)
53723/13	ZAVODNIK	21.05.2015	21.08.2015	6. in 13. člen (dolgotrajno sojenje v sledečem postopku, neustrezen način vročanja)	Akcijsko poročilo	CMResDH(2017)108 (05.04.2017)
77212/12	KOROŠEC	8.10.2015	8.01.2016	6. člen (kršitev načela enakosti orožja, pristranskost izvedenca)	Akcijsko poročilo	CMResDH(2017)110 (05.04.2017)
71872/12	AŽDAJČ	8.10.2015	1.02.2016	6. člen (neprimerno vročanje, zamudna sodba)	Akcijsko poročilo	CMResDH(2017)109 (05.04.2017)
24125/06	W SKUPINA (4 sodbe)	23.01.2014	23.04.2014	3. člen (procesni vidik), v zadevi Y tudi kršitev 8. člena (dolgotrajno sojenje v primeru posilstva)	Revidirano akcijsko poročilo	CMResDH(2018)389 (17.10.2018)
45082/05	S.I. SKUPINA (2 sodbi)	13.10.2011	13.01.2012	8. člen (predlogi postopki glede ureditev siskov z otroki)	Revidirano akcijsko poročilo	CMResDH(2019)68 (27.3.2019)
16808/09	Fuman (S.I. SKUPINA-2 sodbi)	5.02.2015	5.05.2015	8. člen (predlogi postopki glede ureditev stikov z otroki)	Revidirano akcijsko poročilo	CMResDH(2019)67 (27.3.2019)
37242/14	TENCE	31.05.2016	31.08.2016	6. člen (kršitev procesnih pravic/pomanjkljiv dostop do sodišča)	Akcijsko poročilo	CMResDH(2017)394 (22.11.2017)
37903/09	PERAK	1.03.2016	1.06.2016	6. člen (kršitev postopka/revročna zahteva za varstvo zakonitosti)	Revidirano akcijsko poročilo	CMResDH(2018)100 (15.3.2018)
8673/05 and 9733/05	EBERHARD in M.	1.12.2009	1.03.2010	8. člen (neupoštevanje pravice očeta do stikov z otrokom)	Akcijsko poročilo	CMResDH(2017)396 (22.11.2017)

List2

Pripravljen Krožni sklici

06:30 17.03.2023



Q&A

Ministry of Justice of Slovenia

Directorate for criminal law and human rights