



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

FIFTH SECTION

CASE OF NIEDZWIECKI v. GERMANY (No. 2)

(Application no. 12852/08)

JUDGMENT

*This version was rectified on 29 June 2010
under Rule 81 of the Rules of the Court*

STRASBOURG

1 April 2010

FINAL

01/07/2010

*This judgment has become final under Article 44 § 2 of the Convention. It
may be subject to editorial revision..*

In the case of Niedzwiecki v. Germany (no. 2),

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Peer Lorenzen, *President*,

Renate Jaeger,

Karel Jungwiert,

Rait Maruste,

Mark Villiger,

Isabelle Berro-Lefèvre,

Mirjana Lazarova Trajkovska, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 9 March 2010,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 12852/08) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Polish national, Mr Jaroslaw Niedzwiecki (“the applicant”), on 27 February 2008.

2. The German Government (“the Government”) were represented by their Agent, Mrs A. Wittling-Vogel, *Ministerialdirigentin*, of the Federal Ministry of Justice.

3. On 4 June 2009 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3). On 8 June 2009 the Polish Government were informed that they might submit written comments on the case; they did not avail themselves of the right under Article 36 § 1 to intervene in the proceedings.

4. The applicant has previously lodged an application with the Court in which he complained of being denied child benefits on the ground that he did not have a German residence permit. In its judgment of 25 October 2005 the Court held that there had been a violation of Article 14 in conjunction with Article 8 of the Convention (see *Niedzwiecki v. Germany*, no. 58453/00, 25 October 2005).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1961 and lives in Świdnica, Poland. He immigrated to Germany in February 1987.

6. On 28 July 1995 the applicant applied to the Aschaffenburg Labour Office for child benefits for his daughter under the Federal Child Benefits Act.

7. On 18 August 1995 the Labour Office dismissed the applicant's request under Section 1 § 3 of the Federal Child Benefits Act. It considered that the applicant only had a limited residence entitlement for exceptional purposes, and not an unlimited residence permit or provisional residence permit, as required under that section.

8. On 15 September 1995 the applicant filed an administrative objection against the decision of the Labour Office. On 12 October 1995 the Federal Labour Office rejected his objection. On 14 November 1995 the applicant lodged an action with the Würzburg Social Court.

9. Following a reform of the law on child benefits with effect from 1 January 1996, an equivalent provision on child benefits was introduced in Section 62 § 2 of the Income Tax Act, replacing Section 1 § 3 of the Federal Child Benefits Act. Persons subject to income tax were to receive child benefits on the basis of Section 62 § 2 of the Income Tax Act; persons not subject to income tax received child benefits on the basis of an amended provision in the Federal Child Benefits Act.

10. In April 1997 the applicant obtained an unlimited residence permit. The applicant received child benefits from April 1997 until July 1997, after which the payments were stopped due to the applicant's lack of cooperation.

11. On 21 April 1997 the Social Court dismissed the applicant's action regarding child benefits for the period from July 1995 to March 1997. As to the child benefits from April 1997, the Social Court noted that the action was moot; the transcript of the hearing indicated that the parties had agreed that the matter before the Social Court solely concerned the child benefits prior to April 1997. The applicant requested amendment of the transcript and amendment of the Social Court judgment to include his claim for child benefits from April 1997. The Social Court rejected the request for amendment of the transcript on 29 August 1997 and the request for amendment of the judgment in a further judgment dated 8 September 1997. The applicant appealed against both judgments.

12. On 20 October 1997, in order to decide whether following the reform of the law on child benefits the social courts were competent to decide on the applicant's claim for child benefits from 1 January 1996, the Social Court of Appeal asked the applicant to submit documents to show

that he was subject to income tax. The Social Court of Appeal reiterated this request several times, the last time on 8 January 1998, but the applicant failed to submit the relevant documents.

13. By decisions of 22 January 1998 and 23 April 1998, as the applicant did not submit the relevant documents for the period from 1 January 1996 and in order to expedite proceedings, the Social Court of Appeal decided to sever the proceedings on the appeal lodged against the judgment of 21 April 1997, separating the claim for child benefits into two periods: until 31 December 1995 and from 1 January 1996. The latter part was joined with the appeal against the judgment of 8 September 1997.

14. On 29 January 1998 the applicant filed a motion of bias against the judge who had decided to sever the proceedings. The motion was dismissed on 24 March 1998. Against the judges involved in the decision of 24 March 1998, the applicant again lodged a motion of bias, which was rejected as inadmissible on 23 April 1998.

15. On 23 April 1998 the Social Court of Appeal dismissed the applicant's appeal concerning his claims until 31 December 1995. On 18 March 1999 the Federal Social Court dismissed an appeal by the applicant on points of law. On 21 October 1999 the Federal Constitutional Court refused to entertain his constitutional complaint and held that his request for an interim measure was accordingly moot.

16. In the pending proceedings concerning the applicant's claim for child benefits from 1 January 1996, the Social Court of Appeal continued to request further documents (first such request dated 28 October 1998). The applicant failed to submit the requested documents and refused to do so by letter of 4 February 1999. The Social Court of Appeal eventually obtained the documents from different authorities, such as the Labour Office and the Administrative Court.

17. On 2 February 2001 the applicant filed a motion of bias, which was rejected at the hearing of 15 February 2001. At the hearing the applicant reiterated his motion for bias, which was rejected as being abusive and declared inadmissible.

18. On 15 February 2001 the Social Court of Appeal set aside the Social Court's judgment of 21 April 1997 in so far as the applicant claimed child benefits for the period from 1 January 1996, remitting the case back to the Würzburg Social Court. It also granted the appeal against the judgment of 8 September 1997. The applicant requested amendment of the appeal judgment and filed a motion of bias. On 27 March 2001 the motion for bias was rejected as manifestly abusive; on 19 April 2001 the Social Court of Appeal rejected the request to amend the appeal judgment.

19. On 4 April 2001 the applicant filed a request for leave to appeal before the Federal Social Court and filed a motion of bias against the judges of the 10th and 14th Chamber of the Federal Social Court.

On 28 May 2001 the Federal Social Court rejected the motion of bias as manifestly abusive and dismissed the request for leave to appeal.

20. On 3 July 2001 the Social Court decided that it did not have jurisdiction to deal with the applicant's claims regarding child benefits for the period from 1 January 1996 and referred the proceedings to the Nuremberg Tax Court. The applicant objected to the referral. The parties agreed to suspend proceedings before the Nuremberg Tax Court until a decision was rendered on the objection; on 19 September 2001 the Nuremberg Tax Court suspended the proceedings. On 28 January 2002 the Social Court of Appeal dismissed the objection. The Nuremberg Tax Court received the decision of the Social Court of Appeal on 26 March 2002; on 28 March 2002 the Nuremberg Tax Court decided to resume the proceedings.

21. On 6 June 2002 the Tax Court informed the parties that the Federal Tax Court had, in different proceedings, expressed doubts as to the conformity of Section 62 § 2 of the Income Tax Act with the German Basic Law. The Nuremberg Tax Court asked the parties whether, in these circumstances, they agreed to suspend the proceedings until the Federal Tax Court had ruled on the issue. On 4 July 2002 the applicant objected to suspending the proceedings.

22. On 6 April 2006 the Tax Court granted the applicant's claim for child benefits from January 1996, rejecting only his claim for interest.

It noted that the Federal Constitutional Court had ruled on 6 July 2004 that Section 1 § 3 of the Child Benefits Act was incompatible with the right to equal treatment under Article 3 of the Basic Law; the Federal Constitutional Court had also added that if the Child Benefits Act was not amended until 1 January 2006, the law of 1993 should be applied to cases that were not subject to a final decision. It held that the Federal Constitutional Court's ruling was to be taken into account for the equivalent provision on child benefits regulated in Section 62 § 2 of the Income Tax Act. In the light of the Federal Constitutional Court's ruling, the applicant was found to be entitled to child benefits under the relevant provision of the Income Tax Act.

23. The defendant appealed against the Tax Court's judgment on 24 May 2006, but withdrew the appeal on 12 October 2007. On 19 October 2007 the Federal Tax Court terminated the proceedings on the ground of that withdrawal.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AS TO THE LENGTH OF PROCEEDINGS

24. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement laid down in Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

25. The Government contested that argument.

A. Admissibility

26. The Court considers that the child benefit proceedings concerned, from the procedural standpoint, two periods of child benefits: the period up to 31 December 1995, and from 1 January 1996 onwards. The period to be taken into consideration for both sets of proceedings began on 15 September 1995 with the filing of an administrative objection. The first set of proceedings (concerning child benefits until 31 December 1995) ended with the decision of the Federal Constitutional Court on 21 October 1999. The second set of proceedings (concerning child benefits from 1 January 1996) ended with the decision of the Federal Tax Court on 19 October 2007.

27. The Government contested the admissibility of the complaint, in respect of both the first and the second set of proceedings. The applicant made no submissions on that point.

1. The first set of proceedings (concerning child benefits until 31 December 1995)

28. As regards the first set of proceedings, the Government claimed that it was substantially the same as a matter that had already been decided by the Court within the meaning of Article 35 § 2 (b) of the Convention, referring to a previous decision (*Niedzwiecki v. Germany* (dec.), no. 58453/00, 17 June 2003). The Government contended that since the applicant had submitted no new information, the principle of *res judicata* rendered this part of the complaint inadmissible.

29. The Court considers that it can leave open the question of whether the principle of *res judicata* is applicable in the present circumstances. It notes that the first proceedings, which lasted from 15 September 1995 until 21 October 1999 and involved three levels of jurisdiction, do not appear to have lasted too long. In any event, this part of the complaint is

inadmissible as it was submitted too late. The first proceedings came to an end with the decision of the Federal Constitutional Court on 21 October 1999, which constitutes the final domestic decision within the meaning of Article 35 § 1 of the Convention. That is more than six months before the date on which the application was submitted to the Court. The part of the complaint relating to the proceedings concerning child benefits until 31 December 1995 must therefore be declared inadmissible.

2. The second set of proceedings (concerning child benefits from 1 January 1996)

30. As to the second set of proceedings, concerning child benefits from 1 January 1996, the Government contended that Article 6 of the Convention was not applicable to tax proceedings. They argued that until 31 December 1995 child benefits had been granted under the social benefits scheme, but from 1 January 1996 onwards they were granted on the basis of the Income Tax Act. The Government explained that the Income Tax Act provided for child benefits or a child-related tax exemption: all beneficiaries received child benefits during the calendar year, then, when assessing income tax for a specific year, the tax authorities examined whether the child-related tax exemption was more advantageous for the beneficiary than the child benefits paid monthly; if it was more advantageous, the tax exemption was granted instead of the child benefits. The purpose of this legislative amendment had been to take into account the reduced capacity of parents to pay taxes by exempting from tax an amount of income that corresponded to the level of subsistence of the child. The Government admitted that “[i]nsofar as the child benefit, paid monthly, [was] not necessary to make the level of subsistence of the child exempt from tax, in particular with low-income families, it serve[d] to promote the family and [was] to be characterised as a social benefit”. The Government nevertheless claimed that whether or not Article 6 was applicable to child benefits under the Income Tax Act could not depend on the individual case but had to be examined on a general level. The Government concluded that the primary objective of child benefits was to take into account parents’ reduced capacity to pay taxes, which was an issue related to the field of tax law and thus fell outside the scope of Article 6.

31. As the Court has previously found, tax matters form part of the hard core of public-authority prerogatives, with the public nature of the relationship between the taxpayer and the community remaining predominant. Accordingly, tax disputes fall outside the scope of civil rights and obligations, despite the pecuniary effects they necessarily produce for the taxpayer (see *Ferrazzini v. Italy* [GC], no. 44759/98, § 29, ECHR 2001-VII).

32. However, the Court is not convinced by the Government’s argument that the issue at hand is a tax matter which falls outside the scope of

Article 6 of the Convention. As the Government recognised, the child benefits granted under the Income Tax Act may be characterised as social benefits at least as long as the tax exemption also provided for under the Income Tax Act was not found to be more advantageous for the taxpayer. In the present case the domestic proceedings only addressed the issue of whether the applicant was entitled to the monthly payment of child benefits; there was no issue of whether the applicant was entitled to an even more advantageous tax exemption. Proceedings concerning such child benefits, even if, as in the present case, they are granted under a fiscal scheme or may subsequently be replaced for fiscal reasons by a more advantageous tax exemption, are not excluded from the scope of Article 6. The Court further finds that this part of the complaint is not inadmissible on any other grounds. The complaint concerning child benefits from 1 January 1996 must therefore be declared admissible.

B. Merits

1. Period to be taken into account

33. The relevant period to be taken into consideration begins with the date when the applicant filed his objection, a necessary first step before proceedings can be brought in the social courts (see *Janssen v. Germany*, no. 23959/94, § 40, 20 December 2001, and *König v. Germany*, judgment of 28 June 1978, Series A no. 27, § 98). Therefore, the proceedings concerning the child benefits from 1 January 1996¹ began on 15 September 1995; they ended with the decision of the Federal Tax Court on 19 October 2007. The total length of the proceedings thus amounted to over 12 years. Because of the referral from the social courts to the tax courts, it involved two branches of the law, with two levels of jurisdiction in the social courts (including one remittal) plus an administrative level, and two levels of jurisdiction before the tax courts.

2. Reasonableness of the length of proceedings

34. The reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

¹ Rectified on 29 June 2010. The former text was “1 January 2006”.

a. The complexity of the case

35. The Government submitted that the proceedings were not straightforward in so far as the child benefit system had undergone a major reform. Moreover, the proceedings had given rise to the question of the compatibility of the relevant provisions of the Child Benefits Act and the Income Tax Act with the German Basic Law and the Convention. The applicant made no submissions on that point.

36. The Court considers that the facts of the case were not of any particular complexity as they were in the most part uncontested before the courts. However, the case involved points of law of some complexity, such as the compatibility with the Constitution of the relevant provisions of Section 1 § 3 of the Child Benefits Act, and according to the Tax Court that also applied to the equivalent provision on child benefits regulated in Section 62 § 2 of the Income Tax Act.

b. The conduct of the applicant and the authorities

i. Before the Social Court of Appeal

37. The Government submitted that the applicant had delayed the proceedings before the Social Court of Appeal since, after the Social Court had rendered its judgment, he had requested the amendment of the transcript of the hearing and of the Social Court's judgment to include his claim for child benefits from April 1997. As a result, the Social Court of Appeal had been obliged to wait for the decisions of the social courts. The Government added that, although the applicant had been informed that his requests were clearly unfounded, since the defendant had admitted at the hearing the applicant's claim for child benefits from April 1997, he had continued to insist that the Social Court adjudicate on that claim. The Government also submitted that the applicant had refused to provide necessary documentation to enable the Social Court of Appeal to decide whether the social courts were competent to examine the applicant's claim for child benefits from 1 January 1996. The Social Court of Appeal requested the documents from the applicant several times, initially on 20 October 1997 and for the last time on 8 January 1998. The Government contended that those two-and-a-half months could not be attributable to the courts. In addition, the Government submitted that, after the proceedings were severed, the Social Court of Appeal had again requested several times (starting on 28 October 1998) that the applicant submit certain documents, but he had refused to cooperate (applicant's letter of 4 February 1999). The Social Court of Appeal had ultimately had to obtain the documents concerned from other authorities. The applicant made no submissions.

38. As to the Government's argument that the applicant's numerous requests were clearly unfounded, the Court notes that, while the applicant

cannot be blamed for making full use of the remedies available to him under the domestic law, his behaviour, however, is an objective fact which must be taken into account for the purpose of determining whether or not the “reasonable time” has been exceeded (see *Lesar v. Slovenia*, no. 66824/01, § 30, 30 November 2006; and *Girardi v. Austria*, no. 50064/99, § 56, 11 December 2003). As to the Government’s other submissions, the Court finds that the periods in which the applicant did not cooperate with the requests of the Social Court of Appeal cannot be held imputable to the domestic courts.

ii. Before the Nuremberg Tax Court

39. The Government admitted that the length of proceedings before the Nuremberg Tax Court, from 3 July 2001 to 6 April 2006, appeared quite long. They contended, however, that several periods of delay could not be imputed to the Tax Court.

40. The Government argued that, after the applicant objected to the referral of the proceedings from the Social Court to the Tax Court, the parties had agreed to suspend the proceedings before the Nuremberg Tax Court.

41. The Government further submitted that the Tax Court had suspended the proceedings from 6 June 2002 to 22 February 2006 since the issue of the conformity of Section 62 § 2 of the Income Tax Act with the German Basic Law was pending in different proceedings before the Federal Tax Court. The Government argued that in the light of the principle of procedural efficiency the suspension had been justified. Moreover, it had been in the applicant’s interest since, had the Tax Court not suspended the proceedings to await the ruling of the Federal Tax Court, it would have had to apply the law in force at the time and would thus have rejected the applicant’s claim. The applicant submitted that he did not agree with the second suspension of proceedings.

42. Lastly, the Government submitted that on 6 July 2004 the Federal Constitutional Court found Section 1 § 3 of the Federal Child Benefits Act to be in breach of the principle of equal treatment under Article 3 of the Basic Law. The Federal Constitutional Court gave the legislator until 1 January 2006 to amend the law accordingly. The Government argued that it had thus been reasonable for the Tax Court to further suspend the proceedings since it had been likely that the corresponding section of the Income Tax Act would also be amended. The applicant made no submissions on this point.

43. As to the first suspension of the proceedings before the Nuremberg Tax Court, to which the applicant and the defendant had agreed, the Court considers that it ran from 19 September 2001 to 28 March 2002 and that this period of over seven months cannot be imputed to the domestic courts.

44. As to the second suspension, to which the applicant objected on 4 July 2002, the Court reiterates that with regard to the conduct of the national courts, it might be reasonable for them to await under certain circumstances the outcome of parallel proceedings as a measure of procedural efficiency. This decision must however be proportionate having regard to the special circumstances of the case (see, with further references, *Kirsten v. Germany*, no. 19124/02, § 43, 15 February 2007). The period of suspension lasted approximately three years and nine months. The Court understands that it was reasonable for the Tax Court in the present circumstances to await the outcome of the Federal Tax Court's decision, which had a direct impact on the case at hand. The Court considers that a period of three years and nine months, particularly in the light of the fact that the proceedings had been pending since 1995, is difficult to justify merely by referring to the principle of procedural efficiency. However, the Court notes that within that period, on 6 July 2004, the Federal Constitutional Court had rendered a leading decision on the compatibility of the law on child benefits with the German Basic Law.

45. The Court recalls that where there was a systemic wrong based on an unconstitutional legislative act, it may be adequate to allow, as the Federal Constitutional Court did, for a transitional period to enable the State to react to the ruling and amend the law (see *Niedzwiecki v. Germany* (dec.), no. 30209/05, 10 February 2009). The Court notes that it was not Section 62 § 2 of the Income Tax Act that the Federal Constitutional Court found to be incompatible with the Constitution, but the corresponding section in the Federal Child Benefits Act. It was nevertheless reasonable for the Tax Court to believe that the incompatibility also extended to the equivalent section in the Income Tax Act. In the specific circumstances of the case, it was justified for the Tax Court to wait for the legislator to act within the transitional period, that is, from 6 July 2004 to 1 January 2006.

c. What was at stake for the applicant in the dispute

46. The Government submitted that the proceedings concerned a claim for child benefits for the period from January 1996 to March 1997. They contended that the defendant had recognised at the hearing on 21 April 1997 the existence of a child benefit claim for the period from April 1997 onwards. The parties had then agreed that the matter before the court concerned only the child benefits prior to April 1997. The applicant denied that he had agreed to that, alleging that he had sought child benefits for the whole period since the birth of his child, without indicating any end date.

47. The Court notes that the Government filed a transcript of the hearing of 21 April 1997 in which it is stated that the parties agreed that the matter before the court concerned only the child benefits prior to April 1997; the applicant's objection to that transcript was of no avail. In any event, the

Court notes that the applicant received child benefits from April 1997 until July 1997, after which the payments were stopped because of the applicant's lack of cooperation. The Court accordingly finds that the relevant proceedings concerned the period until March 1997. The amount owed by the defendant, though not negligible, was limited to a fixed period and did not increase while the proceedings were pending before the courts. The financial prejudice suffered by the applicant did not increase over time.

d. The Court's conclusion

48. The Court considers that several periods cannot be held imputable to the domestic courts, *inter alia* because the applicant had not duly cooperated with the courts. Nevertheless, in view of the protracted length of the proceedings before the Social Court of Appeal and the Tax Court and having examined all the material submitted to it, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

49. The applicant complained, in general terms, that the decisions of the authorities and courts had infringed his human rights. He referred, *inter alia*, to his submissions made in the proceedings concerning application no. 58453/00, in which he had complained that his claim for child benefits had been indivisible and the proceedings should not have been split, and that the Federal Constitutional Court had refused to issue an interim order in his favour in 1999.

50. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence and raise new issues at all, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

51. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

52. The applicant claimed EUR 5,000 in respect of non-pecuniary damage.

53. The Government contested the claim, submitting that it was excessive considering that the amount did not increase over time and that the applicant had contributed to the length of the proceedings.

54. The Court, ruling on an equitable basis, finds that in view of the applicant’s conduct in the domestic proceedings and the specific circumstances of the present case the finding of a violation of Article 6 § 1 of the Convention is sufficient just satisfaction for any non-pecuniary damage suffered by the applicant. It therefore dismisses this claim.

B. Costs and expenses

55. The applicant claimed a lump sum of EUR 2,000 for the costs and expenses incurred before the social courts and for those incurred before the Court. He submitted that he had incurred lawyer’s fees before the social courts of around (1,479.15 German Marks (DM), approximately EUR 755). The applicant additionally submitted that on 14 January 2008 the Nuremberg Tax Court had ordered the defendant to pay EUR 50 plus interest, but the authorities had not paid. The applicant also claimed that the defendant had paid his wife the child benefits from August 1997 until November 2001, without paying interest.¹

56. The Government submitted that the applicant had not sufficiently specified and substantiated his claim for EUR 2,000.

57. According to the Court’s case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. The Court has already considered the claim of DM 1,479.15 regarding the social proceedings in its previous judgment (see *Niedzwiecki v. Germany*, cited above, §§ 44-46); it is not for the Court to reconsider its

¹ Rectified on 29 June 2010. The former text was : “ The applicant also claimed that the defendant had **not** paid his wife the child benefits from August 1997 until November 2001, without paying interest.”

finding concerning this amount in the present case. As to the other claims, the Court considers that the applicant has failed to sufficiently establish a link to the present proceedings. With respect to costs and expenses for the proceedings before the Court, the Court considers that the applicant has not sufficiently specified his claim.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the excessive length of the proceedings concerning the child benefits from 1 January 1996¹ admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that the finding of violations constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 April 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President

¹ Rectified on 29 June 2010. The former text was “ 1 January 2006 “.