

Resolution CM/ResDH(2013)244
71 cases against Germany
Execution of the judgments of the European Court of Human Rights

(See Appendix for the list of cases)

*(Adopted by the Committee of Ministers on 5 December 2013
at the 1186th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”),

Having regard to the final judgments transmitted by the Court to the Committee in these cases and to the violations established;

Recalling the respondent State’s obligation, under Article 46, paragraph 1, of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails, over and above the payment of any sums awarded by the Court, the adoption by the authorities of the respondent State, where required:

- of individual measures to put an end to violations established and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- of general measures preventing similar violations;

Having invited the government of the respondent State to inform the Committee of the measures taken to comply with the above-mentioned obligation;

Having examined the action report provided by the government indicating the measures adopted in order to give effect to the judgments including the information provided regarding the payment of the just satisfaction where awarded by the Court (see document [DH-DD\(2013\)1234](#));

Welcoming that the German authorities have, within the time-limit set by the Court in its pilot judgment delivered in the case of Rumpf, introduced in their legal system a domestic remedy in respect of the excessive length of judicial proceedings in order to comply with the requirements of the Convention;

Having satisfied itself that all the measures required by Article 46, paragraph 1, have been adopted,

DECLARES that it has exercised its functions under Article 46, paragraph 2, of the Convention these cases and

DECIDES to close the examination thereof.

Appendix

Application/	Case	Judgment of	Final on
46344/06	RUMPF	02/09/2010	02/12/2010
54215/08	ABDUVALIEVA	26/11/2009	26/02/2010
44036/02	ADAM	04/12/2008	04/03/2009
39444/08	AFFLERBACH	24/06/2010	
10732/05	BÄHNK	09/10/2008	09/01/2009
1479/08	BALLHAUSEN	23/04/2009	23/07/2009
8453/04	BAYER	16/07/2009	16/10/2009
21965/09	BELLUT	21/07/2011	
7634/05	BOZLAR	05/03/2009	05/06/2009
1126/05	D.E.	16/07/2009	06/11/2009
17878/04	DEIWICK	11/06/2009	11/09/2009
7369/04	DEIWICK	26/03/2009	26/06/2009
40014/05	DÖRING	08/07/2010	08/10/2010
39778/07+	DUDEK	16/12/2010	
2693/07	EWALD	21/10/2010	
1679/03	GLÜSEN	10/01/2008	10/04/2008
66491/01	GRÄSSER	05/10/2006	26/03/2007
43155/08	GRUMANN	21/10/2010	
57249/00	HERBOLZHEIMER	31/07/03	31/10/03
20027/02	HERBST	11/01/2007	11/04/2007
397/07+	HOFFER AND ANNEN	13/01/2011	20/06/2011
1182/05	HUB	09/04/2009	09/07/2009
39641/08	JAHNKE	03/03/2011	
10053/08	JESSE	22/12/2009	
11811/10	KEMPE	30/06/2011	
37820/06	KINDEREIT	08/10/2009	08/01/2010
19124/02	KIRSTEN	15/02/2007	09/07/2007
21061/06	KRESSIN	22/12/2009	
17384/06	KUCHEJDA	24/06/2010	
21980/06+	KUHLEN-RASANDJANI (I-III)	20/01/2011	20/04/2011
41599/09	KUPPINGER	21/04/2011	
53550/09	KURCZVEIL	20/10/2011	
14635/03	LAUDON	26/04/2007	24/09/2007
58911/00	LEELA FÖRDERKREIS E.V. AND OTHERS	06/11/2008	06/02/2009
41629/07	MIANOWICZ	13/10/2011	
37111/04	MIANOWICZ	29/09/2011	
37264/06	MIANOWICZ	13/10/2011	
3810/06	MIANOWICZ	13/10/2011	
3863/06	MIANOWICZ	13/10/2011	
32637/08	MIANOWICZ	13/10/2011	
71972/01	MIANOWICZ No. 2	11/06/2009	01/03/2010
36395/07	MÜLLER	25/02/2010	25/05/2010
39741/02	NANNING	12/07/2007	12/10/2007
12852/08	NIEDZWIECKI No. 2	01/04/2010	
32513/08	NIESEN	21/10/2010	
27250/02	NOLD	29/06/2006	11/12/2006
10597/03	OMMER No. 1	13/11/2008	13/02/2009
26073/03	OMMER No. 2	13/11/2008	13/02/2009
28348/09	OTTO	22/09/2011	
25756/09	PERSCHKE	24/06/2010	
901/05	PETERMAN	25/03/2010	
34236/06	POPOVIC	13/01/2011	13/04/2011
485/09	REINHARD	25/03/2010	31/05/2010
32338/07	RITTER-COULAIS	30/03/2010	
21423/07	SCHÄDLICH	24/06/2010	
2651/07	SCHLIEDERER	21/10/2010	
46682/07	SINKOVEC	30/03/2010	

Application/	Case	Judgment of	Final on
76680/01	SKUGOR	10/05/2007	24/09/2007
47757/06	SOPP	08/10/2009	08/01/2010
854/07	SPATH	29/09/2011	08/03/2012
38033/02	STORK	13/07/2006	13/10/2006
75529/01	SÜRMELI	08/06/2006	Grand Chamber
32936/09	TRÄXLER	21/10/2010	
64387/01	UHL	10/02/2005	10/05/2005
54188/07	VOLKMER	30/03/2010	
40009/04	VON KOESTER No. 1	07/01/2010	22/11/2010
17019/08	VON KOESTER	22/09/2011	
38187/08	WAGNER	18/11/2010	
30175/07	WETJEN	25/03/2010	
974/07	WIENHOLTZ	21/12/2010	21/03/2011
42402/05+	WILDGRUBER	21/01/2010	21/04/2010

**Report on the execution of the pilot judgment of the European Court of Human Rights
delivered on
2 September 2010 in the case of R. v. Germany (No. 46344/06) and 70 other cases concerning
excessive length of proceedings and the lack of an effective remedy in that respect**

1. Introduction

The cases concern the lack of an effective remedy against the length of judicial proceedings before the civil courts, the labour courts, the administrative courts, social courts and criminal courts, as well as of criminal investigation proceedings.

A list of all cases concerned is enclosed in Annex 1.

The European Court of Human Rights established in its judgments that the length of the proceedings constituted a violation of Article 6 § 1 of the Convention. Because the applicants did not have an effective remedy within the meaning of Article 13 of the Convention which could have expedited the proceedings or provided adequate redress for delays that had already occurred, the Court found in several cases that there had been a violation of Article 13 of the Convention.

The Court had found in its judgment of 8 June 2006 handed down in the case No. 75529/01 that the possibilities of legal protection in Germany in the event of excessive length of proceedings did not meet the requirements of Article 6 § 1 and Article 13 of the Convention.

In the case of R. v. Germany (No. 46344/06), the Court rendered a pilot judgment against Germany on 2 September 2010 because legal protection had not yet been improved. The Court requested the German Government to introduce without delay and within maximum of one year after the judgment became final (i.e. by 2 December 2011), a remedy in the national legal system in order to bring it in line with the Convention requirements.

2. Individual measures

a) Just satisfaction

In all cases, the compensation awarded was paid within the time limit set by the Court. The amounts paid and the payment dates are listed in Annex 1.

b) Domestic proceedings

It has now been possible to conclude the domestic proceedings with legal force in 66 out of 71 cases.

The domestic proceedings which it has not yet been possible to finally conclude have been continued since the respective judgments of the Court. Annex 2 contains an overview of the status of these sets of proceedings, also showing the progress that has been made in the proceedings.

The Federal Government has stressed in these cases towards the authorities and courts concerned that full implementation of the judgments also encompasses the duty to conclude the proceedings that are still pending within a reasonable period and without any culpable delays. In order to make sure that this takes place, they are closely monitored by the Federal Government. The Federal Government hence calls for reports from the competent authorities at regular intervals in all cases on the progress that has been achieved in the proceedings, and requests to be provided with information on steps that have been taken serving to achieve the conclusion of the proceedings. Accordingly, all authorities concerned regularly inform the Federal Government of the progress made in the proceedings. According to these reports, all sets of proceedings are now being rapidly pursued.

3. General measures

a) Publication and dissemination of the judgments

The courts that were involved in the court proceedings, whose decision formed the basis of the applications, have been notified of the judgments. Furthermore, German translations of the judgments were sent to all the Ministries of Justice of the *Länder* for notification within their remit.

In addition to this, German translations of the judgments were published on the website of the Federal Ministry of Justice in the Ministry's case-law database (www.bmj.de/egmr).

Furthermore, the translations were sent to several important publishing houses that bring out legal periodicals. Thereupon, several judgments were published in legal periodicals. A list of publications can be found on www.egmr.org. The pilot judgment in the case of R. v. Germany has been published in the "*Europäische Grundrechte Zeitschrift*" (EuGRZ 2010, p. 700) and the "*Neue Juristische Wochenschrift*" (NJW 2010, 3355).

Moreover, the judgments have been included in the reports drawn up in the Federal Ministry of Justice, entitled "Report on the Case-Law of the European Court of Human Rights and on the Execution of its Judgments in Cases against the Federal Republic of Germany". These reports have been widely disseminated and published on the Federal Ministry of Justice website at www.bmj.de.

b) Presentation of the report on the implementation of the judgments in Parliament

The annual reports on the Court's case-law and the implementation of the judgments in cases against Germany were also forwarded to the competent committees of the German Federal Parliament and of the Federal Council (Committee on Legal Affairs, Committee on Human Rights, Petitions Committee). Additionally, individual reports have been presented by the Federal Government in the plenary of the Committee on Human Rights and discussed with the delegates.

c) Federation-Länder Conference

An annual conference has been held at the Federal Ministry of Justice, attended by representatives of the *Länder*, the Federal Ministries and the Federal Courts. The judge at the European Court of Human Rights elected for Germany also attended the conferences. A major topic of the conferences was excessively long court proceedings and the creation of effective legal protection in case of such proceedings. The conferences made a major contribution towards heightening the awareness of the need to take effective measures against excessively long proceedings.

d) Basic and further training of judges and public prosecutors

The European Convention for the Protection of Human Rights plays a major role in the basic and further training of judges and public prosecutors in the light of the case-law of the ECHR. Specifically, the topic of "excessively long proceedings" has been the subject of several different further training events held at the German Judicial Academy and in the further training facilities of the *Länder*. For instance, the Agents for the Federal Government reported regularly to the German Judicial Academy on the case-law of the ECHR. This has also dealt with how to avoid excessively long sets of proceedings.

e) Statistics

The average duration of proceedings in Germany has been at a constantly low level for several years. For instance, civil court proceedings before the Local Courts take an average of fewer than five months.

Duration of court proceedings (starting instance)
(Source: *Fachserie 10 Reihe 2.1 - 2.8* of the Federal Statistical Office/DeStatis)

	Average length of proceedings in months 2010 and 2011	Average length of proceedings in months 2007
Civil courts	<u>Local Court (2011):</u> 4.7	<u>Local Court (2007):</u> 4.5
	<u>Regional Court (2011):</u> 8.2	<u>Regional Court (2007):</u> 7.9
Family courts	7.0 (2011)	10.1 (2007)
Criminal courts	<u>Local Court (2011):</u> Criminal proceedings: 3.8 Fines proceedings: 2.9	<u>Local Court (2007):</u> Criminal proceedings: 4.0 Fines proceedings: 2.7
	<u>Regional Court (2011):</u> 6.4	<u>Regional Court (2007):</u> 6.3
Administrative courts	<u>Administrative Courts (2011):</u>	<u>Administrative Courts (2007):</u>

	10.8	13.9
	<u>Regional Administrative Courts (2011)</u>	<u>Regional Administrative Courts (2007)</u>
	15.8	12.4
Social courts	14.0 (2011)	13.7 (2007)
Labour courts	3.1 (2011)	3.1 (2007)
Finance courts	16.8 (2011)	18.5 (2007)

The longer proceedings before the social courts are a consequence of the large number of highly complex cases in which the expertise of external experts is required. This particularly relates to pension and compensation rights, such as the recognition of an occupational disease as a prerequisite for an invalidity pension (cf. *Fachserie 10 Reihe 2.7* of the Federal Statistical Office/DeStatis).

f) Organisational measures to reduce the length of proceedings

Where structural problems were identified, measures have been taken to improve the situation.

For example, with regard to the case of *O. v. Germany* (1 and 2) (Nos. 10597/03 and 26073/03): The Court found that unreasonable delays occurred before the Cologne investigation authorities and the Regional Court due to staff shortages. A special division composed of highly qualified experts was created in the Cologne Public Prosecutor's office in 2003 to deal with organised economic crimes and large-scale criminal cases. Modern technological facilities were installed. In 2009, additionally recruited prosecutors in North-Rhine Westphalia were allocated to divisions dealing with economic crimes. Furthermore, Cologne Regional Court has also been reinforced with additional personnel. Members of the civil section have been assisting the criminal section for several years. Four additional judges have been assigned to Cologne Regional Court since May 2007. These measures have helped accelerate criminal proceedings.

Another example is the case of *K. and T. v. Germany* (Nos. 45749/06 and 51115/06): At the time the proceedings were pending, the Federal Constitutional Court faced an extraordinary workload. A variety of relief measures were taken to improve the situation. An additional registry was set up. Four more legal staff members have been employed in the scientific service of the Federal Constitutional Court. The number of scientific staff members was increased by a total of 12 persons from 1999 to 2005.

g) Legislative measures to ensure legal protection in the case of excessive length of court proceedings and criminal investigation proceedings

Draft legislation was drawn up very soon after the pilot judgment. The *Act on Legal Redress for Excessive Length of Court Proceedings and of Criminal Investigation Proceedings* aims to do justice to Article 6 § 1 and Article 13 of the Convention as interpreted by the Court. The Act entered into force one year after the pilot judgment became final on 3 December 2011. It provides a remedy against proceedings of excessive length in two steps:

Acceleratory remedy

The first step requires those affected to file a complaint about the delay to the court that in their view is working too slowly. This helps to avoid proceedings of excessive length from the outset. The "delay objection" permits judges to remedy the situation. This means that people cannot merely allow a set of proceedings to take a long course and later claim compensation.

Compensatory remedy

If the proceedings continue to be delayed despite the complaint, a claim for compensation may be filed as a second step. In these compensation proceedings, the affected citizens receive, as a general rule, €1,200 per year for so-called non-pecuniary disadvantages – for example, for psychological and physical burdens caused by the long proceedings – where reparations of another type are not sufficient. In addition to compensation for a non-pecuniary disadvantage, there is appropriate compensation for a pecuniary disadvantage, for example if the unreasonably long proceedings lead to a company's insolvency.

The new claim to compensation is not dependent on fault. This means that it does not matter whether judges can be blamed for the delay. In addition to the new compensation rules, claims for official liability – as in the past – may also be lodged if the delay is based upon a culpable violation of official duties. In such cases, comprehensive compensation for damage may be claimed, for example compensation for lost profits.

Protection against proceedings of excessive length will result in positive effects for the justice system as a whole. In cases where there is a large number of complaints due to the length of the proceedings, those responsible will need to reflect on how to improve facilities, the distribution of responsibilities and organisation. The legislation thereby not only enhances legal protection before the German courts, but in fact strengthens the courts themselves as well.

An English version of the Act is available on the website of the Federal Ministry of Justice:
http://www.bmj.de/SharedDocs/Downloads/DE/pdfs/Act_on_Legal_Redress_for_Excessive_Length_of_Court_Proceedings_and_of_Criminal_Investigation_Proceedings.pdf?__blob=publicationFile.

h) Effectiveness of the new legal protection

After the above Act came into force, the European Court of Human Rights, with its rulings of 29 May 2012 in the cases of *T. v. Germany* (No. 53126/07) and *G. v. Germany* (No. 19488/09) amongst others, rejected as inadmissible complaints of excessively long proceedings because the applicants had failed to exhaust all the domestic remedies. The Court ruled that the applicants had first to claim compensation in Germany in accordance with the new Legal Redress Act before the Court could deal with the application.

The Court however explicitly indicated that its position may be subject to review in the future, particularly depending on the domestic courts' capacity to establish consistent case-law under the Legal Redress Act in line with the Convention requirements. The Court furthermore indicated that, in any new applications, the burden of proof as to the effectiveness of the new remedy would lie in practice with the respondent Government (*T. v. Germany* (No. 53126/07), marginal No. 45 and *G. v. Germany* (No. 19488/09), marginal No. 48.)

There have now been various rulings on the basis of the new Act.

For instance, the Higher Administrative Court of the *Land* Saxony-Anhalt ruled by judgment of 25 July 2012 (ref: 7 KE 1/11) that court proceedings before Halle Administrative Court had all in all lasted for an inappropriately long period. One could presume that the length of the proceedings was inappropriate if a weighing up of all the circumstances indicated that the obligation incumbent on the State to effect a conclusion of court proceedings within a reasonable period in line with the above provisions had been violated. In the specific case, a police officer had objected to being transferred to a different department within her police station. The proceedings before the Administrative Court were concluded two years after the action had been received. The Senate found that in view of the low level of difficulty and complexity of the proceedings, the total period of processing of the initial legal dispute at more than two years, and its processing in individual stages of the proceedings, was no longer reasonable within the meaning of the Act on Legal Redress for Excessive Length of Court Proceedings, and awarded to the police officer compensation of 1,864.87 € for material damage and compensation of 1,200.00 € for non-pecuniary damage (Annex 3). The Federal Administrative Court confirmed the ruling by judgment of 11 July 2013 (ref: 5 C 27.12 D).

In another set of proceedings, Berlin-Brandenburg Higher Administrative Court found by judgment of 27 March 2012 (ref: 3 A 1.12) that proceedings before the Administrative Court had been excessively long, and awarded 4,000 € to the applicant as compensation for non-pecuniary damage. In the underlying proceedings, a student had complained of being asked to re-pay an educational promotion subsidy. Berlin-Brandenburg Higher Administrative Court found that the proceedings had not been pursued over a period of three years and four months without any adequate justification. Referring to the case-law of the European Court of Human Rights, the court emphasised that the *Land* against which the action was directed was not able to invoke the general workload of the administrative courts in the period in question. The courts had to make sustained efforts to accelerate the proceedings as their duration became longer. The respondent *Land* was obliged to organise its legal system in such a way that its courts were able to guarantee the right of the individual to bring about a ruling with legal force within a reasonable period (Annex 4). On 11 July 2013 the Federal Administrative Court

reversed the judgment (ref: 5 C 23.12 D). It found that there had been an unjustified delay of five years and that the applicant therefore had to be awarded the total sum of 6,000 € as compensation for non-pecuniary damage.

A further ruling related to the excessive duration of a set of criminal proceedings. By judgment of 24 October 2012, Celle Higher Regional Court (23 SchH 3/12) awarded compensation of 3,000 € to the person concerned for the excessive length of the investigation proceedings pursued against him on suspicion of perjury and attempted obstruction of justice. The Higher Regional Court presumed an unjustified delay of two years and six months in this case. No notable promotion of the proceedings had taken place during this period. Since the appeal on points of law to the Federal Court of Justice was admitted, this ruling does not yet have legal force (Annex 5).

By judgment of 7 November 2012, Celle Higher Regional Court (23 SchH 2/12) awarded 3,600 € to a plaintiff in damages for excessively long civil proceedings. In the underlying proceedings, the plaintiff requested compensation and damages for pain and suffering for medical malpractice. The Higher Regional Court found that there had been an unjustified delay totalling three years in connection with obtaining a report by an expert witness (Annex 6).

By judgment of 29 November 2012 (L 10 SF 5/12 ÜG), Saxony-Anhalt Higher Social Court found that the duration of a set of proceedings before the social courts had been unreasonable, and awarded damages of 2,400.00 € to the plaintiff. Since the appeal on points of law to the Federal Social Court has been admitted, this ruling does not yet have legal force (Annex 7).

By ruling of 13 August 2012 (1 BvR 1098/11), the Federal Constitutional Court rejected as inadmissible a complaint because of the duration of social court proceedings at first instance for lack of a need for legal protection, pointing to the new Legal Redress Act. The Federal Constitutional Court found in this ruling that the duration of the proceedings before the social court was not reasonable. The Federal Constitutional Court emphasised once more that the reasonableness of the length of proceedings was to be assessed in the light of the circumstances of the particular case concerned. In particular, the difficulty of the material to be ruled on, the need for factual investigations, the importance of what was at stake in the case for the participants and their own conduct in the proceedings were significant here. The Federal Constitutional Court went on to state that an excessive workload of a court – unlike unforeseeable coincidences or twists of fate – falls within the area of responsibility of the constitutional state. It is incumbent on the *Länder* to ensure within their remit adequate material and staffing for the courts to enable them to perform their justice mandate in a manner meeting the requirements of Art. 19 § 4 sentence 1 of the Basic Law (GG). The *Länder* must also react in such cases to any prolonged periods of incapacity for work of the judicial staff by taking suitable action (Annex 8).

By rulings of 28 January 2013 (2 BvR 1912/12), 20 June 2012 (2 BvR 1565/11) and 30 May 2012 (1 BvR 2292/11), the Federal Constitutional Court did not admit constitutional complaints because of excessive length of proceedings that had been lodged for adjudication since the applicants had omitted to lodge a damage action in accordance with section 198 subs. 1 sentence 1 of the Courts Constitution Act (GVG).

A further non-admission ruling was based on the initial proceedings which had been regarded as too long now having been concluded (order of 13 August 2012 (1 BvR 1098/11)).

Rulings of the Higher Regional Courts can be appealed by an appeal on points of law. The rulings of the Federal Courts which have already been handed down since the new law came into force relate to the admissibility of other remedies (Federal Court of Justice, order of 29 November 2012, VIII ZB 49/12), granting legal aid in connection with damage actions (Federal Court of Justice: orders of 20 December 2012; III ZA 33/12; of 8 November 2012, III ZA 27/12; of 25 October 2012 - III ZB 64/12; of 27 June 2012, III ZB 45/12; Federal Finance Court: orders of 12 March 2013, X S 12/13 (PKH)); of 26 July 2012, X S 18/12 (PKH); obligation to have counsel in damage actions (Federal Finance Court, judgment of 6 February 2013, X K 11/12), the impact of the unreasonable length of proceedings in disciplinary proceedings (Federal Administrative Court, orders of 22 January 2013 - 2 B 89.11; of 30 August 2012 - 2 B 21.12; of 1 June 2012, 2 B 123.11; of 16 May 2012 - 2 B 3.12; judgment of 29 March 2012 – Federal Administrative Court 2 A 11.10), as well as the questions concerning the degree to which the excessive length of a set of proceedings can constitute grounds for the admission of an appeal on points of law only (Federal Finance Court, order of 9 January 2013, X B 114/12), and

when a delay in proceedings in breach of the rule of law applies in criminal proceedings (Federal Court of Justice, order of 5 December 2012, 1 StR 531/12).

4. Conclusion

It can be found against this background that the German case-law is appropriately applying the Act, which came into force in December 2011, with which an appeal against excessively long proceedings was created. The pilot judgment R. (No. 46344/06) has hence been implemented.

List of cases R. v. Germany group

	No.	Judgment	Just satisfaction (total)	Paid on
1 Pilot	46344/06	02/09/2010	13,990.00	30.12.2010
2	54215/08	26/11/2009	2,380.00	19.03.2010
3	44036/02	04/12/2008	7,500.00	18.05.2009
4	39444/08	24/06/2010	10,433.83	22.09.2010
5	10732/05	09/10/2008	2,469.65	12.02.2009
6	1479/08	23/04/2009	9,000.00	12.08.2009
7	8453/04	16/07/2009	6,500.00	04.12.2009
8	21965/09	21/07/2011	5,050.00	19.10.2011
9	7634/05	05/03/2009	3,000.00	03.09.2009
10	1126/05	16/07/2009	1,750.00	07.12.2009
11	17878/04	11/06/2009	500.00	30.09.2009
12	7369/04	26/03/2009	1,500.00	12.08.2009
13	40014/05	08/07/2010	4,900.00	07.01.2011
14	39778/07 11171/08 43336/08 52719/08 15895/09 16123/09 16127/09 16129/09 27529/09 27533/09 27596/09	16/12/2010	30,000.00	14.03.2011
15	2693/07	21/10/2010	6,000.00	19.01.2011
16	1679/03	10/01/2008	12,163.46	08.07.2008
17	66491/01	05/10/2006	59,000.00	22.06.2007
18	43155/08	21/10/2010	12,796.99	19.01.2011
19	57249/00	31/07/2003	12,000.00	23.12.2003
20	20027/02	11/01/2007	10,000.00	09.07.2007
21	397/07 2322/07	13/01/2011	10,000.00	16.09.2011
22	1182/05	09/04/2009	2,500.00	07.10.2009
23	39641/08	03/03/2011	-	-
24	10053/08	22/12/2009	4,000.00	31.03.2010
25	11811/10	30/06/2011	3,300.00	28.09.2011
26	37820/06	08/10/2009	-	-
27	19124/02	15/02/2007	4,000.00	09.10.2007
28	21061/06	22/12/2009	3,000.00	31.03.2010
29	17384/06	24/06/2010	11,500.00	22.09.2010
30	21980/06 26944/07 36948/08	20/01/2011	10,000.00	20.07.2011
31	41599/09	21/04/2011	8,945.73	19.07.2011
32	53550/09	20/10/2011	6,000.00	16.01.2012
33	14635/03	26/04/2007	-	-
34	58911/00	06/11/2008	4,000.00	04.05.2009
35	71972/01	11/06/2009	8,880.00	19.03.2010
36	37111/04	29/09/2011	4,850.00	27.12.2011
37	3810/06	13/10/2011	2,670.00	11.01.2012
38	3863/06	13/10/2011	5,150.00	11.01.2012
39	37264/06	13/10/2011	3,650.00	11.01.2012
40	41629/07	13/10/2011	-	-
41	32637/08	13/10/2011	-	-
42	36395/07	25/02/2010	500.00	23.08.2010
43	39741/02	12/07/2007	8,397.35	11.01.2008
44	12852/08	01/04/2010	-	-
45	32513/08	21/10/2010	3,000.00	19.01.2011

46	27250/02	29/06/2006	5,618.16	08.03.2007
47	10597/03	13/11/2008	20,000.00	11.05.2009
48	26073/03	13/11/2008	14,000.00	11.05.2009
49	28348/09	22/09/2011	17,164.54	20.12.2011
50	25756/09	24/06/2010	2,000.00	22.09.2010
51	901/05	25/03/2010	10,000.00	19.05.2010
52	34236/06	13/01/2011	5,000.00	01.07.2011
53	485/09	25/03/2010	12,644.20	23.06.2010
54	32338/07	30/03/2010	10,736.25	19.04.2010
55	21423/07	24/06/2010	4,000.00	22.09.2010
56	2651/07	21/10/2010	2,600.00	19.01.2011
57	46682/07	30/03/2010	5,132.61	03.05.2010
58	76680/01	10/05/2007	2,000.00	27.12.2007
59	47757/06	08/10/2009	14,000.00	08.02.2010
60	854/07	29/09/2011	270.00	06.06.2012
61	38033/02	13/07/2006	2,900.00	11.01.2007
62	75529/01	08/06/2006 [GC]	14,672.89	06.09.2006
63	32936/09	21/10/2010	14,879.20	19.01.2011
64	64387/01	10/02/2005	2,000.00	05.08.2005
65	54188/07	30/03/2010	23,188.59	30.04.2010
66	40009/04	07/01/2010	-	-
67	17019/08	22/09/2011	12,600.00	20.12.2011
68	38187/08	18/11/2010	3,100.00	16.02.2011
69	30175/07	25/03/2010	9,000.00	12.04.2010
70	974/07	21/12/2010	17,943.91	17.06.2011
71	42402/05 42423/05	21/01/2010	9,500.00	19.07.2010

Annex 2

Sets of proceedings in which the Court found a violation of Art. 6 § 1 for excessively long proceedings where the underlying domestic proceedings had not yet been concluded at the time of the Court's judgment

Version: October 2012

Proceedings,	Judgement of	Domestic proceedings	Continuation of proceedings/current status
Proceedings currently still pending:			
No. 43155/08	21 October 2010	Munich Higher Regional Court	The Higher Regional Court partly granted the applicant's action by judgment of 17 November 2011, which is final. However, the Higher Regional Court remitted the dispute to Munich I Regional Court for a renewed trial and ruling as to the amount of material damage suffered by the applicant. The complaint against non-admission lodged against this to the Federal Court of Justice by the respondent was dealt with by order of 24 April 2012. The written statement of counsel for the defendant was received on 18 September 2012 and was immediately forwarded to counsel for the plaintiff. The judge dealing with the case worked through the files during her holiday; the chamber is currently preparing to set a date for the settlement hearing. In this respect, counsel for the plaintiff has stated that the plaintiff is unavailable for the period from 7 January to 5 February 2013.
No. 32338/07	30 March 2010	Landau/Pfalz Regional Court, Palatinate Higher Regional Court Zweibrücken	A judgment was handed down by the Regional Court on 13 January 2011. An appeal on points of fact and law was filed with Zweibrücken Higher Regional Court against this judgment. A hearing took place on 23 November 2011. The parties did not accept a settlement proposed by the Senate. The plaintiffs subsequently submitted a new statement on the facts. Thereupon, an order on the taking of evidence was handed down on 3 August 2012 to commission an expert report on the accident. The report is currently being drawn up by an expert witness. The proceedings before the Higher Regional Court are still pending.
No. 32936/09	21 October 2010	Darmstadt Regional Court	After necessary expert reports had been obtained and various statements had been submitted, a settlement was reached on 15 August 2012, which was however withdrawn by the respondent. The Regional Court handed down a judgment on 12 December 2012. After an appeal on points of fact and law had been lodged, the case is now pending at second instance with Frankfurt am Main Higher Regional Court.
No. 53550/09	20 October 2011	Cottbus Social Court, Berlin-Brandenburg Regional Social Court	An appeal on points of fact and law was lodged on 7 July 2010 against the judgment of the Social Court. On application by the plaintiff, the Regional Social Court commissioned an expert report. The expert witness acknowledged the existence of an occupational disease, but with no pension entitlement. After the respondent had made a statement, an additional statement was requested from the expert witness. The proceedings before the Regional Social Court are still pending because of the need to consult an additional expert report.
No. 40009/04	7 January 2010	Public liability proceedings Wiesbaden Regional Court (7 O 58/98 and 9 O 283/11)	A judgment was handed down before Wiesbaden Regional Court on 18 May 2012. The judgment has however not yet gained legal force, given that an appeal on points of fact and law has been lodged. The proceedings for the appeal on

			points of fact and law are continuing.
Proceedings which have now been concluded with legal force:			
No. 27529/09	16 December 2010	Hanover Social Court/Lower Saxony Regional Social Court	<p>The Regional Social Court amended the judgment of Hanover Social Court of 26 September 2007 on 12 May 2010 and sentenced the defendant to rule anew on the applicant's hardship application, taking account of the court's legal opinion.</p> <p>On 9 February 2011, the Federal Social Court rescinded the judgment of the Regional Social Court of 12 May 2010 and remitted the case to the Regional Social Court.</p> <p>The Regional Social Court ruled once more on 21 March 2012; same content as in the judgment of 12 May 2010.</p> <p>The Federal Social Court rejected the complaint against non-admission (B 6 KA 24/12B) submitted by the plaintiff on 11 June 2012 with order of 12 December 2012. The proceedings are hence concluded with legal force</p>
No. 1479/08	23 April 2009	Göttingen Regional Court	The proceedings were concluded with final and binding force by judgment of the Regional Court of <u>28 May 2009</u> . The appeal on points of law only was not admitted by the Higher Regional Court.
No. 11811/10	30 June 2011	Berlin-Brandenburg Higher Administrative Court	<p>Judgment of Berlin Administrative Court of 21 July 2010 (VG 19 A 159.07).</p> <p>On 2 October 2012, Berlin-Brandenburg Higher Administrative Court rejected the motion to admit the appeal on points of fact and law (OVG 2 N 88.10). The proceedings have hence been concluded <u>with legal force since 2 October 2012</u>.</p>
No. 71972/01	11 June 2009	Munich Labour Court and Munich Regional Labour Court	The proceedings were concluded by the judgments of Munich Labour Court in July 2010 and of the Regional Labour Court in February 2011.
No. 37111/04	29 September 2011	<p>Munich Labour Court (27 Ca 915/91 new 27 Ca 7831/00), Munich Regional Labour Court (3 Sa 1281/05)</p> <p>Proceedings relating to night work allowances for the period from 1 July to 31 December 1988 (approx. 1,950 EUR) and the refund of the costs of a trip to Paris (approx. 220 EUR).</p>	<p>Main case: Judgment of Munich Regional Labour Court of 3 May 2004: action rejected; Appeal on points of fact and law dealt with by final judgment of 25 August 2006; Legal aid application rejected (5 AZA 15/06) to make a complaint against non-admission by order of 20 February 2007. <u>Hence concluded with legal force since 25 August 2006</u></p> <p>Taxation of costs: Order fixing costs of 7 March 2008; Complaint (10 Ta 391/08) rejected by order of 25 September 2008; <u>concluded with legal force</u> after rejection of the complaint because of the right to be heard lodged after several motions of challenge with <u>order of 15 February 2010</u></p>

No. 3810/06	13 October 2011	<p>Munich Labour Court (8 Ca 20737/93 new most recently: 8 Ca 7395/03 of which separation 8 Ca 16686/07 on 12 December 07)</p> <p>Munich Regional Labour Court (11 Sa 78/08 and 11 Sa 77/08, 3 Sa 126/09)</p> <p>Applicant requested submission of accounts for all salaries which his employer was said to owe to him for the period from 1 July 88 to 31 December 93, the payment of the salaries for this period, as well as a finding that RFE/RL was obliged to pay to him his salary from 1 July 88.</p>	<p>Main case: <u>8 Ca 7395/03</u>: judgment of 12 December 07; appeal on points of fact and law (11 Sa 77/08) rejected with order of 16 December 09. <u>Hence concluded with legal force since 16 December 2009.</u> Complaint against rejection of legal aid (11 SHa 3/08 = 10 Ta 471/10) dealt with by order of 5 October 2012</p> <p><u>8 Ca 16686/07</u>: 1. partial judgment of 12 December 07 = 11 Sa 78/08, hence <u>finally</u> dealt with since <u>16 December 09</u> 2. residual claims: withdrawal and hence <u>final since 3 May 10</u> 3. of which separated on 22 December 08 = 8 Ca 308/09:</p> <p><u>8 Ca 308/09</u>: Appeal on points of fact and law lodged against judgment of 22 December 08 (3 Sa 126/09). Concluding judgment of 9 July 10 (5 AZN 1141/10). <u>final since 26 January 2011.</u></p> <p>Taxation of costs: In <u>8 Ca 308/09</u>: Immediate complaint of 5 September 12 against last cost finding for 3rd instance = 10 Ta 307/12, <u>concluded with legal force since 4 October 2012</u></p>
No. 32637/08	13 October 2011	<p>Munich Labour Court (7a Ca 16489/97); Munich Regional Labour Court (4 Sa 533/05)</p> <p>Action for a finding that employment had not been dissolved by dismissal, as well as for further employment, compensation and continued wage payment and granting of an additional pension payment</p>	<p>Main case: Judgment of Munich Labour Court of 11 August 2004, appeal on points of fact and law concluded with final judgment of 19 July 2007, Complaint against non-admission (2 AZN 415/08) is rejected with order of 28 August 2008 <u>Hence concluded with legal force since 28 August 2008</u></p> <p>Taxation of costs: Order fixing costs of 30 June 2009 Complaint (10 Ta 98/09) rejected with order of 30 June 2009, <u>Hence concluded with legal force since 30 June 2009</u> Order fixing costs corrected with order of 3 June 2011</p> <p>The proceedings have been fully concluded.</p>
No. 485/09	25 March 2010	Hanover Regional Court	Proceedings concluded with legal force by judgment of Hanover Regional Court of <u>2 March 2010</u>
No. 54188/07	30 March 2010	Munich Regional Court; Munich Higher Regional Court; Nuremberg Higher Regional Court	The proceedings before Nuremberg Higher Regional Court were concluded by settlement of <u>2 November 2010</u> .
No. 38187/08	18 November 2010	North Rhine-Westphalia Regional Social Court	The proceedings before the Regional Social Court were concluded by a settlement on <u>28 November 2011</u> .