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Chamber judgment
Not Final¹

Rumpf v. Germany (application no. 46344/06)

FIRST PILOT JUDGMENT IN RESPECT OF GERMANY: EXCESSIVE LENGTH OF PROCEEDINGS BEFORE GERMAN COURTS CONSTITUTES SYSTEMIC PROBLEM

Unanimously

Violation of Article 6 § 1 (right to a fair hearing within a reasonable time)
Violation of Article 13 (right to an effective remedy)
of the European Convention on Human Rights

The case concerned the excessive length of proceedings before the domestic courts, a recurring problem underlying the most frequent violations of the Convention found by the Court in respect of Germany. More than half of its judgments against Germany finding a violation concerned this issue. The Court therefore considered it appropriate to apply the pilot judgment procedure, which it had developed in recent years in order to deal with large groups of similar cases stemming from the same structural and/or systemic problem.

In order to facilitate the effective implementation of its judgments, in a pilot judgment the Court might clearly identify the existence of structural or systemic problems underlying the violations and indicate specific measures or actions to be taken by the responsible state to remedy them.

From 1959 to 2009, the Court had delivered judgments in more than 40 cases against Germany finding repetitive violations of the Convention on account of the excessive length of civil proceedings. In 2009 alone, 13 such violations of the reasonable-time requirement of Article 6 § 1 had been found. In another judgment, delivered in 2006², the Court had already pointed out the lack of an effective remedy against excessively long court proceedings and drawn the German Government's attention to its obligation to select, subject to supervision by the Committee of Ministers, the general measures to be adopted to put an end to the violation found by the Court and to redress so far as possible the effects.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on the day the request is rejected.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

² *Sürmeli v. Germany* [GC], no. 75529/01, 8 June 2006

While the Court welcomed a recent legislative initiative by the Government aiming to address the problem, it also noted that Germany had so far failed to put into effect any measures aimed at improving the situation, despite the Court's substantial and consistent case-law on the matter. The systemic character of the problem was further evidenced by the fact that some 55 applications against Germany concerning similar problems were currently pending before the Court and the number of such applications was constantly increasing. Accordingly, the violations found in the instant case were the consequence of shortcomings of the German Government and to be qualified as resulting from a practice incompatible with the Convention.

The Court unanimously held that Germany had to introduce without delay, and at the latest within one year from the date on which the judgment became final, an effective domestic remedy against excessively long court proceedings. A remedy was to be considered effective if it could be used either to expedite a decision by the courts dealing with a case, or to provide the litigant with adequate redress for delays that had already occurred.

The Court did not consider it necessary to adjourn the examination of similar cases before the implementation of the relevant measures. Continuing to process all similar pending cases in the usual manner would remind Germany on a regular basis of its obligation under the Convention and in particular resulting from the instant judgment.

Principal facts of the present case

The applicant, Rüdiger Rumpf, is a German national who was born in 1951 and lives in Ingelheim (Germany). Operating a personal security service, Mr Rumpf lodged an administrative appeal against the decision of the Querfurt county (Saxony-Anhalt) authorities not to renew his gun licences on 30 November 1993. The appeal was dismissed in March 1994. In parallel proceedings, he applied to the administrative court for interim measures. This application was dismissed in January 1994, a decision which was confirmed by the administrative court of appeal in August 1994.

In April 1994, Mr Rumpf brought an action with Halle Administrative Court. After the court had ordered Mr Rumpf to reason his action in June 1995 and had subsequently extended the time-limit, his lawyer submitted the reasoning in September of that year. After the hearing had been rescheduled on Mr Rumpf's request and eventually held in May 1996, the judgment in early June 1996 confirmed the non-renewal of the gun-licences.

Mr Rumpf appealed in July 1996. One year later, the administrative court of appeal informed his counsel that it was not foreseeable when a decision would be rendered. A hearing was held in November 1998, but the case was subsequently adjourned due to missing files. During the following two years the court asked the county authorities and Halle Administrative Court for the missing files, without success. A second hearing was scheduled and postponed. In late 2002 and early 2003, a new counsel for Mr Rumpf repeatedly requested a hearing to be held and informed the court that he did not deem the missing documents relevant. Because no hearing had been scheduled, he filed a motion for bias against the presiding judge in May 2003, which was later dismissed. At about the same time, Mr Rumpf's former counsel applied for legal aid, which led the court to ask for a clarification of his legal representation in July 2003. His counsel thus provided a power of attorney a few days later. A hearing was eventually held in May 2004 and a reasoned judgment, refusing leave to appeal on points of law, was served on Mr Rumpf's counsel on 30 June 2004.

An appeal against that decision was dismissed by the Federal Administrative Court in January 2005. In March of that year, Mr Rumpf brought a constitutional complaint against the decisions of the lower courts, alleging in particular a violation of his Convention rights

because of the length of the proceedings. The court's registry informed him about doubts as to the admissibility and asked him to indicate whether he wanted to pursue the complaint. Mr Rumpf requested an extension of the time-limit and in October 2005 his new counsel submitted further observations. In a decision of 25 April 2007, which was received by Mr Rumpf's lawyer on 7 May 2007, the Federal Constitutional Court refused to admit the complaint for examination.

Complaints, procedure and composition of the Court

Mr Rumpf complained that the length of the proceedings before the administrative courts was excessive. He relied on Article 6 § 1. Under Article 13, he further complained that German law did not provide for an effective legal remedy against the excessive length of court proceedings.

The application was lodged with the European Court of Human Rights on 10 November 2006.

Judgment was given by a Chamber of seven judges, composed as follows:

Peer **Lorenzen** (Denmark), **President**,
Renate **Jaeger** (Germany),
Karel **Jungwiert** (Czech Republic),
Mark **Villiger** (Liechtenstein),
Mirjana **Lazarova Trajkovska** ("The former Yugoslav Republic of Macedonia")
Zdravka **Kalaydjieva** (Bulgaria),
Ganna **Yudkivska** (Ukraine), **judges**,

and also Claudia Westerdiek, **Section Registrar**.

Decision of the Court

Article 6 § 1

The period to be taken into consideration had begun on 30 November 1993 and had ended with the receipt of the Federal Constitutional Court's final decision on 7 May 2007, thus lasting in total 13 years and five months at four levels of jurisdiction.

The Court observed that the proceedings had not raised any questions of law or fact of particular complexity. The fact that Mr Rumpf had in parallel pursued his interest in interim proceedings could be considered a common procedural situation, and those proceedings came to an end long before the appeal proceedings started; they could thus not have had a delaying effect.

Most of the delay in the proceedings could not be attributed to Mr Rumpf. As regards the proceedings before the administrative court, only a delay of approximately two months could be attributed to him, resulting from requests for the extension of the time-limit set by the court more than one year after the action had been lodged.

The most substantial delay occurred before the administrative court of appeal, where the proceedings had been pending for almost eight years. Only two lawyers had been involved in those proceedings, and that court had only asked for clarification of Mr Rumpf's representation nine months after the second lawyer had intervened. The additional appointment of legal counsel was therefore not responsible for any delay of the proceedings.

A substantial delay of two and a half years was caused by the unsuccessful attempt to recover the missing files, which the Court considered to fall within the area of responsibility of the German Government. The motion for bias lodged later in the proceedings could not justify the fact that no new hearing was set in almost three years. Only the delay in the proceedings before the Federal Constitutional Court had to be attributed to Mr Rumpf, as his counsel had only submitted the required additional observations six months after the original time-limit.

The Court noted that Mr Rumpf's business had depended on the outcome of the case. While the final refusal of the licence had led to an economic loss for him, it was also the length of the proceedings and the resulting uncertainty as to whether he would be able to resume his business that had damaged him. Had the proceedings been terminated in a more timely fashion he could have started to reorganise or relocate his business earlier.

For those reasons, the Court unanimously held that there had been a violation of Article 6 § 1.

Article 13

The Court underlined that in many other cases against Germany it had found that there was no effective remedy under German law capable of affording redress for the unreasonable length of civil proceedings. Accordingly, it unanimously concluded that in Mr Rumpf's case there had been a violation of Article 13 on account of the lack of a remedy whereby he could have obtained a ruling upholding his right to have his case heard within a reasonable time, as set forth in Article 6 § 1.

Just satisfaction

Under Article 41 (just satisfaction) of the Convention, the Court held that Germany had to pay 10,000 euros to Mr Rumpf for non-pecuniary damage.

The judgment is available only in English. This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on its [Internet site](#). To receive the Court's press releases, you can subscribe to the [Court's RSS feeds](#).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.