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

FIFTH SECTION

DECISION

Application no. 71591/17
Oskar GRÖNING
against Germany

The European Court of Human Rights (Fifth Section), sitting on 20 October 2020 as a Chamber composed of:

Síofra O'Leary, *President,*
Mārtiņš Mits,
Ganna Yudkivska,
Gabriele Kucsko-Stadlmayer,
Latif Hüseynov,
Lado Chanturia,
Anja Seibert-Fohr, *judges,*
and Victor Soloveytchik, *Section Registrar,*

Having regard to the above application lodged on 26 September 2017,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Oskar Gröning, was a German national, who was born in 1921. On 9 March 2018 the applicant died. Subsequently, his two sons expressed the wish to pursue the proceedings in his stead. He was represented before the Court by Mr H. Holtermann, a lawyer practising in Hannover.

2. The German Government ("the Government") were represented by their Agent, Mr H.-J. Behrens, of the Federal Ministry of Justice and Consumer Protection.

A. The circumstances of the case

3. The facts of the case, as submitted by the parties, may be summarised as follows.

1. Background to the case

4. In October 1940 the applicant joined the SS. From September 1942 until October 1944 he served in the Auschwitz extermination camp, as a member of the unit which administered the victims' belongings. The applicant, who wore a uniform and carried a weapon, was mostly assigned to work at the "ramp" where, upon arrival by train, the deportees were "selected", that is, sent either to the concentration camp or to the gas chamber. The applicant was not directly involved in the selection process but, as a member of his unit, was responsible for collecting and securing all luggage and other belongings. Between 16 May 1944 and 11 July 1944 approximately 430,000 Hungarian Jews arrived and approximately 300,000 of them died in the gas chamber (the so-called "*Ungarn-Aktion*").

2. Criminal proceedings as of 1977

5. In 1977 the Frankfurt public prosecutor's office initiated a criminal investigation concerning the applicant and other persons on suspicion of aiding and abetting murder, in connection with their presence in the Auschwitz extermination camp from September 1942 until October 1944. On 5 January 1978 the applicant was questioned by the police as an accused.

6. According to the Government, the senior public prosecutor in charge of the investigation informed the applicant subsequently that he was of interest only as a witness for the prosecution. According to the applicant, the senior public prosecutor had merely informed him that the intention was to question him as a witness for the prosecution on the subject of whether it had been possible for a member of the SS to request a transfer from Auschwitz without any adverse consequences. He had not been told additionally that the criminal investigation had been discontinued or that he no longer had to fear criminal prosecution. Likewise, those remarks had not been made when he had been questioned on 5 January 1978; they had been made in the late 1970s or early 1980s.

7. Between 1977 and September 1982 the investigation was ultimately conducted in relation to sixty-two persons. Suspects were questioned, witnesses were interviewed and copies of criminal judgments from France and Poland were procured. The Central Office for the Investigation of Nazi Crimes supported the public prosecutor's investigation with archive research.

8. On 6 March 1985 the Frankfurt public prosecutor's office discontinued the investigation on the basis of Article 170 § 2 of the Code of Criminal Procedure (see paragraph 25 below), finding that there were insufficient grounds to bring charges ("*kein zur Erhebung der öffentlichen Klage hinreichender Tatverdacht*"). The decision explicitly stated that, due to other urgent business, detailed reasons for the decision would be given later. This apparently never happened. Unlike some of the other accused, who had been represented by a lawyer, the applicant was not formally notified of the decision.

3. Subsequent developments

9. In the 1980s and 1990s the applicant testified as a witness in criminal proceedings against other accused persons concerning criminal conduct in the Auschwitz extermination camp.

10. On 8 November 1984 the applicant was interviewed by the police as a witness in criminal proceedings against a member of the SS who had also served in the Auschwitz extermination camp. The applicant gave a detailed account of his work at the "ramp".

11. In 2003/2004 he gave interviews on British television and in 2005 to the weekly newspaper *Der Spiegel.* In the interviews, the applicant explained openly and in detail his role in the functioning of the Auschwitz extermination camp. *Der Spiegel* reported further that the applicant had presented the journalist with a letter from the Duisburg Regional Court in which he had underlined a passage stating that he was not being summoned as an accused, but solely as a witness.

12. Subsequently, the Central Office for the Investigation of Nazi Crimes informed the Frankfurt public prosecutor's office of the report in *Der Spiegel*. On 11 July 2005 the Frankfurt public prosecutor's office informed the Central Office of its decision to nevertheless not resume the discontinued investigation. The decision provides an in-depth analysis of the case. The authority considered that the applicant's role in the functioning of the extermination camp lacked the causal link to the criminal acts in question that was required in order to be considered as aiding and abetting murder. The fact that he had been assigned to work at the "ramp", wearing a uniform and carrying a weapon, did not justify a different assessment. Moreover, the issue of intent was questionable because the applicant might not have known about the cruel manner of the victims' death, which resulted from breathing in the poisonous gas used in the gas chambers.

13. In 2011 the Munich II Regional Court sentenced John Demjanjuk, who had served in the Sobibór extermination camp, on the basis of his role in the functioning of the extermination camp, irrespective of the nature of his specific tasks. This decision – even though it did not become finally binding because Mr Demjanjuk died during the course of the appeal

proceedings (see, for further information, *Demjanjuk v. Germany*, no. 24247/15, 24 January 2019) – triggered a new legal assessment of the role of individuals in the functioning of extermination camps. As a consequence, various investigations were resumed or initiated throughout Germany.

14. In 2012 the Central Office for the Investigation of Nazi Crimes informed the Frankfurt public prosecutor's office of the Munich II Regional Court's decision in the Demjanjuk case. On 8 January 2013 the Frankfurt public prosecutor's office decided once again not to resume the discontinued proceedings.

4. Criminal proceedings as of 2013

15. On 29 November 2013 the Hannover public prosecutor's office initiated an investigation concerning the applicant on suspicion of aiding and abetting murder in connection with his presence at the Auschwitz extermination camp from September 1942 until October 1944. On 17 February 2014 it questioned the applicant as an accused. On 28 August 2014 it pressed charges against the applicant for aiding and abetting 300,000 counts of murder.

16. On 15 July 2015, after a trial running from April to July, the Lüneburg Regional Court sentenced the applicant to a prison term of four years. It found that the applicant's (sole) objection, namely that the criminal proceedings were incompatible with the reasonable time requirement under Article 6 § 1 of the Convention, should not be allowed.

17. With regard to the period between 1978 and 1985, the court found that the proceedings had not placed the applicant under any significant strain comparable to that of the sanction. Even though he had been questioned initially as an accused, the proceedings had not put him under pressure. The senior public prosecutor had told the applicant during questioning that he need not be worried because there was no real intention to prosecute him and he was simply of interest as a witness for the prosecution. From then on, the applicant, according to his own statements, had been convinced that he was morally responsible but legally innocent and that he would never be convicted.

18. The court found that the period between 1985 and 2013 was not to be taken into account because no investigation had been pending once the Frankfurt public prosecutor's office had discontinued the proceedings. Non-existent proceedings could neither be lengthy nor could they result in significant strain for the applicant.

19. With regard to the period between 2013 and the date of delivery of the judgment, there was no indication of undue delay in the proceedings.

20. Additionally, the Regional Court found that it was not possible to ascertain whether and when the applicant had learned about the discontinuation decision of 1985. At the same time, he had not been

interested in the outcome of the first criminal investigation because he had not felt himself to be under any strain on account of those proceedings. He had not made any enquiries in that regard, either in person or with the help of his defence lawyer. Subsequently, he had given witness testimony in criminal proceedings against other members of the SS who had also served in the Auschwitz extermination camp. He had then had even more reason to be convinced of being legally innocent and of no longer running the risk of being prosecuted.

21. On 15 October 2015 the applicant lodged an appeal on points of law and argued that the Regional Court had erred in its application of Article 6 § 1 of the Convention. There had been no separate periods of delay; instead, the criminal investigation had lasted from his questioning by the police in 1978 until his conviction. The discontinuation decision in 1985 did not interrupt the time that had to be taken into account in calculating the overall length of the criminal proceedings. The Regional Court had failed to award any compensation although the criminal proceedings had been protracted, lasting for almost thirty-five years.

22. The Federal Public Prosecutor's Office requested that the appeal on points of law be rejected as manifestly ill-founded on the basis of Article 349 § 2 of the Code of Criminal Procedure (see paragraph 27 below). It submitted that the length complaint regarding the period between 1978 and 1985 was inadmissible for failure to substantiate in detail the claim that the proceedings had not progressed during that period. Furthermore, the proceedings had been discontinued in 1985, regardless of whether or not the applicant had been officially notified.

23. On 20 September 2016 the Federal Court of Justice rejected the applicant's appeal as manifestly ill-founded on the basis of Article 349 § 2 of the Code of Criminal Procedure. In respect of the length complaint it fully endorsed the submissions of the Federal Public Prosecutor's Office, without providing any additional reasoning.

24. On 20 July 2017 the Federal Constitutional Court decided not to accept the applicant's constitutional complaint for adjudication, without providing reasons (2 BvR 2636/16).

B. Relevant domestic law and practice

1. Code of Criminal Procedure

25. Article 170 of the Code of Criminal Procedure, in the version applicable in 1985 and during the proceedings which lasted from 2013 until 2017, reads as follows:

> "(1) If the investigation provides sufficient grounds to bring charges, the public prosecutor's office shall submit a bill of indictment to the competent court.
>
> (2) Otherwise, the public prosecutor's office shall discontinue the proceedings. It shall notify the accused thereof if he or she was questioned as such or an arrest

warrant was issued against him or her; the same shall apply if the accused requested such notice or if there is a particular interest in notification."

26. The letter notifying the accused includes the discontinuation decision, but the public prosecutor's office is generally not required to provide reasons for the decision of its own motion.

27. Article 349 § 2 of the Code of Criminal Procedure provides that the court deciding on the appeal on points of law may, on a reasoned application by the public prosecutor's office, dismiss a defendant's appeal on points of law without a hearing if it considers the appeal to be manifestly ill-founded. The decision must be unanimous.

2. Case-law of the domestic courts on excessive length of criminal proceedings

28. The case-law of the domestic courts on excessive length of criminal proceedings was summed up in the judgment in *Kaemena and Thöneböhn v. Germany* (nos. 45749/06 and 51115/06, §§ 47-54, 22 January 2009).

COMPLAINT

29. The applicant complained under Article 6 of the Convention that the length of the proceedings had been incompatible with the "reasonable time" requirement.

THE LAW

A. Preliminary issue

30. The Court considers that the applicant's sons have a legitimate interest in pursuing their father's application (see *Fojcik v. Poland*, no. 57670/00, § 45, 21 September 2004; *Kozimor v. Poland*, no. 10816/02, § 27, 12 April 2007; and *Hristozov and Others v. Bulgaria*, nos. 47039/11 and 358/12, § 71, ECHR 2012 (extracts)). There is no indication, nor has the Government claimed, that the applicant's sons are not his heirs. For reasons of simplicity, the Court will continue to refer to the deceased father as the applicant.

B. The parties' submissions

31. The applicant relied on Article 6 § 1 of the Convention, which reads, in so far as relevant, as follows:

"In the determination of ... any criminal charge against him everyone is entitled to a ... hearing within a reasonable time by a ... tribunal..."

1. The Government

32. The Government were of the opinion that the applicant had failed to exhaust domestic remedies. Between 1978 and 1985 he had never alleged an unreasonable delay and, in any event, the complaint before the Federal Court of Justice had been inadmissible. The Government argued that there was no doubt to the effectiveness of the domestic remedies. As to the proceedings from 2013 onwards, he had failed to file an objection to delay and a compensation claim in time.

33. Generally, the criminal proceedings beginning in 1977 and the proceedings from 2013 onwards had to be considered as two separate matters. The lack of formal notification of the discontinuation decision concerning the prior proceedings was irrelevant for the purposes of Article 6 § 1 of the Convention in the applicant's case because the applicant had always had the impression that he was not facing criminal prosecution in connection with his role in the Auschwitz extermination camp. This was clear from the applicant's statements before the Regional Court, according to which he felt morally responsible but legally innocent and had not been interested in the criminal proceedings. It could furthermore be surmised from his conduct after 1985, given that he had never enquired about the outcome of the proceedings, had testified as a witness in other court proceedings and had given interviews without apparently being concerned about incriminating himself.

34. Additionally, on the basis of the remarks of the senior public prosecutor (see paragraph 6 above), the applicant had reasonably assumed that there was no longer a risk of criminal prosecution. In support of their version concerning the senior public prosecutor's remarks, the Government submitted written statements. In one of them, a trial judge of the Regional Court confirmed that the findings as to the content of those remarks had been based on the applicant's submissions during the trial. It had not been possible to summon the senior public prosecutor himself because he had died in 2009. In another written statement, a prosecutor who had attended the trial confirmed that the applicant had stated during the trial that the senior public prosecutor had seen him in 1977. The senior prosecutor had told the applicant on that occasion that he need not be worried because he was of interest solely as a witness for the prosecution in the event that one of the accused might plead having simply acted on orders. The applicant was also quoted as saying during the trial that he had never realised that he had been an accused. Accordingly, there had been no criminal proceedings between 1985 and 2013.

35. The second set of proceedings, which was only relevant for the determination of the length of the proceedings, had not been excessively long. It had been conducted over three levels of jurisdiction and had concerned rather complex questions.

2. The applicant

36. The applicant contested that view. He maintained that he had exhausted domestic remedies and that the length of the proceedings had been excessive because the criminal proceedings had not been discontinued properly in 1985. The criminal proceedings had thus started in 1978, when he had been questioned as an accused, and had ended only in September 2016, when the Federal Court of Justice had rejected his appeal. The public prosecutor's office had failed to formally notify him of the discontinuation decision in 1985, contrary to its statutory obligation.

37. His statement in the domestic proceedings, to the effect that he had not been interested in the investigations and had felt morally responsible but legally innocent, was to be attributed to the fact that he had been convinced that he had not committed a crime rather than to any knowledge of the fact that the proceedings had been discontinued. There had been no obligation for him to enquire about the state of the proceedings. Furthermore, the information provided by the senior public prosecutor had not included a statement that there would be no further criminal investigation concerning him. Generally speaking, the public prosecutor's office was obliged by law to continue its investigations. The applicant submitted a written testimony by his lawyers as proof of his oral submissions during the trial in 2015 concerning the content of the remarks by the senior public prosecutor.

C. The Court's assessment

1. Period to be taken into consideration

38. The Court reiterates that, according to its case-law, the period to be taken into consideration under Article 6 § 1 of the Convention begins at the time when formal charges are brought against a person, or when that person has otherwise been substantially affected by actions taken by the prosecution authorities as a result of a suspicion against him (see *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 44, ECHR 2004 XI).

39. The Court notes that it is not in dispute between the parties that the applicant's questioning as an accused marks the point at which the proceedings started. It is, however, in dispute between them whether the questioning in 1978 or the questioning in 2014 is decisive. This depends on whether the proceedings are regarded as two separate sets of proceedings or as one single set of proceedings.

40. The Court observes that the Regional Court examined three periods. One lasted from 1978 to 1985, another one from 2013 to the date of delivery of the criminal judgment and the intervening period was explicitly classified as non-existent proceedings (see paragraphs 17-19 above). Nevertheless, the Court does not consider itself bound by this conclusion and will undertake

its own assessment whether the prior proceedings had constituted a separate set of proceedings.

(a) Notification of the discontinuation decision

41. Concerning the end of the prior proceedings, the Court notes that one of the purposes of the right to a trial within a reasonable time is to protect individuals from remaining too long in a state of uncertainty about their fate (see *Stögmüller v. Austria*, 10 November 1969, Series A no. 9, p. 40). This means that the period to be taken into consideration lasts until the person concerned has ceased to be affected as a result of the charges levelled against him and the uncertainty concerning his legal position has been removed (see *Nakhmanovich v. Russia*, no. 55669/00, § 89, 2 March 2006). Accordingly, criminal proceedings will, as a rule, end with an official notification to the accused that they are no longer to be pursued on those charges such as would allow a conclusion that their situation could no longer be considered to be substantially affected (see *Kalpachka v. Bulgaria*, no. 49163/99, § 65, 2 November 2006). It must therefore be determined at which point in time this took place in the case at hand.

42. The Court shares the applicant's view that the Frankfurt public prosecutor's office, contrary to its statutory obligation, failed to formally notify him in writing of the discontinuation decision of 1985. The Regional Court also noted that it was not possible to ascertain whether and when the applicant had learned about the discontinuation decision (see paragraph 20 above).

43. In cases where an applicant was entitled under domestic law to be served *ex officio* with a written copy of the decision to discontinue, the Court has found that the relevant period lasted until the moment that the decision was communicated to the person concerned (see *Nakhmanovich*, cited above, §§ 87 et seq., and *Borzhonov v. Russia*, no. 18274/04, § 38, 22 January 2009).

44. However, unlike in the present case, the applicants in those cases had been left in a state of complete uncertainty. Even though they had enquired about the state of the criminal proceedings, they had not learned about the discontinuation decision until they received the Russian Government's observations in reply to their applications to the Court. Moreover, in *Nakhmanovich* (cited above, § 92) it was doubtful whether the decision to discontinue the proceedings had been issued on the date indicated therein and not retrospectively. In contrast, there are no reasons to believe that the applicant in the present case would not have obtained the discontinuation decision in writing if he had enquired about the state of the proceedings or if he had requested the discontinuation decision once apprised of its existence or of information pointing to the absence of an intention to prosecute him (see further below). For such notification it was also immaterial whether the reasons for the discontinuation were given in

full, as the applicant would only have been informed of the decision as such (see paragraph 26 above).

45. In another case, it was sufficient that the Minister of Justice had informed the applicant that he would not be prosecuted (see *X v. the Netherlands*, no. 9433/81, Commission decision of 11 December 1981, Decisions and Reports (DR) 27, p. 237). Elsewhere, a trial judge's order to leave the charges on the file was considered to have ended the criminal proceedings for the purposes of Article 6 of the Convention (see *Withey v. the United Kingdom* (dec.), no. 59493/00, ECHR 2003-X).

46. The Court therefore proceeds on the basis that the discontinuation decision taken in 1985, which was not formally communicated to the applicant, did not end the running of the period that had started on 5 January 1978. Nevertheless, having regard to the circumstances of the present case and the underlying aim of Article 6, that is to say, to remove uncertainty concerning the legal position of an accused, the failure to comply with the domestic provisions on notification does not preclude the Court from examining whether the uncertainty was removed by other means.

(b) Removal of uncertainty by other means

47. The Court observes that while both investigations concerned the applicant's role in the functioning of the Auschwitz extermination camp between September 1942 and October 1944, they were conducted by different public prosecutors' offices and quite a lengthy period elapsed between them.

48. The Court further observes that remarks had been made by the senior public prosecutor in charge of the prior proceedings about the applicant's role as a witness for the prosecution (see paragraphs 6, 34 and 37 above). While the existence of the remarks is uncontested, the Court is confronted with a dispute over the content and timing of the remarks.

49. In proceedings before the Court, there are no procedural barriers to the admissibility of evidence or pre-determined formulae for its assessment. The Court adopts the conclusions that are, in its view, supported by the free evaluation of all evidence, including such inferences as may flow from the facts and the parties' submissions. According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 147, ECHR 2005-VII with further references).

50. Turning to the present circumstances, no records of the remarks existed and the Regional Court relied in this regard exclusively on the applicant's submissions during the trial. The senior public prosecutor himself could not be questioned because he had died prior to the trial. In the proceedings before the Court, the Government and the applicant referred to

written statements by persons who had attended the trial, including a trial judge, a public prosecutor and the applicant's lawyer.

51. The Court finds it difficult to establish the content of the remarks solely on the basis of those written statements since they are conflicting. It is thus required to evaluate coexisting evidence.

52. The Government's version of the remarks is supported by the applicant's conduct between 1985 and 2013. In the 1980s and 1990s the applicant testified as a witness and gave a detailed account of his work in Auschwitz during criminal proceedings brought against perpetrators from the extermination camps. Similarly, during interviews for British television and a German newspaper he explained openly and in detail his role in the functioning of the extermination camp. In particular, a letter from the Duisburg Regional Court (see paragraph 11 above), in which he had underlined a passage stating that he was being summoned solely as a witness, provides further evidence that he no longer considered himself as a person charged with criminal offences. This is also consistent with the written statement of the public prosecutor (see paragraph 34 above) who quoted the applicant as saying during the trial that he had never realised that he had been an accused. Similarly, the Regional Court found that the applicant was convinced that he was morally responsible but legally innocent and that he would never be convicted (see paragraph 17 above).

53. The Court thus shares the Government's assessment of the content of those remarks. Nevertheless, it cannot confirm that the senior public prosecutor made those remarks on the occasion of the initial questioning of the applicant in 1978, as the written record of the questioning that was submitted, indicates that only the applicant and a police officer were present, but not a public prosecutor. The Court therefore assumes in favour of the applicant that those remarks were not made on the occasion of the questioning on 5 January 1978, but rather at the end of the 1970s or early 1980s.

54. Against this background, the Court considers that the applicant trusted in the senior public prosecutor's remarks. He knew that he was no longer charged with a criminal offence, but was only of interest as a witness for the prosecution. Since it is impossible to establish the exact date of those remarks, which, even according to the applicant's account, were made at the latest in the early 1980s, the Court concludes that the applicant ceased to be affected as a result of the charges levelled against him by the end of 1985 at the latest. Accordingly, the first period to be taken into consideration ended at this moment.

(c) Conclusion as regards the period to be taken into consideration

55. The Court distinguishes therefore two sets of criminal proceedings against the applicant. The first one began on 5 January 1978 and ended on 31 December 1985 at the latest. The second one began on

17 February 2014. As regards the end of the second set of proceedings, the applicant complained of the excessive length of the proceedings with regard to the period up to 20 September 2016, the date of the Federal Court of Justice's decision. The Government, in this regard, referred to an even later date, namely 20 July 2017, the date of the Federal Constitutional Court's decision. Having regard to the applicant's claims, the Court concludes that the period to be taken into account started on 17 February 2014 and ended on 20 September 2016.

2. Complaint regarding the length of the first set of criminal proceedings

56. The Court does not need to examine whether the applicant complied with the rule of exhaustion of domestic remedies, as the complaint concerning the first set of criminal proceedings has been lodged in any event out of time. The Court has already found that the applicant ceased to be affected by the charges in the first set of proceedings by the end of 1985 at the latest (see paragraph 54 above). He did not apply to the Court within the following six months period nor did he provide any information that would justify his long-lasting inactivity.

57. It follows that this part of the application concerning the first set of criminal proceedings must be declared inadmissible for failure to comply with the six-month time-limit in accordance with Article 35 §§ 1 and 4 of the Convention.

3. Complaint regarding the length of the second set of criminal proceedings

58. In regard to these proceedings too, the Court does not need to examine whether the applicant complied with the rule of exhaustion of domestic remedies, as the complaint concerning the second set of criminal proceedings is in any event inadmissible for the reasons set out below.

59. The Court reiterates that the reasonableness of the length of proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and the conduct of the competent authorities see (among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II).

60. The Court has in the past held that the length of proceedings concerning war crimes must be measured in the light of considerations such as the non-applicability of rules of prescription to such crimes and the long time that may have elapsed since the commission of the acts of which an individual might be accused. In *X. v. Germany* (no. 6946/75, Commission decision of 6 July 1976, Decisions and Reports (DR) 6, pp. 115-116, concerning proceedings that lasted more than eleven years) the above

criteria for determining the reasonableness of the length of proceedings were considered to be inapplicable in a similar case to the present one because of the exceptional character of the proceedings.

61. Turning to the present case, the Court notes the complexity of the criminal proceedings against the applicant, given the large number of very serious charges and the difficulties encountered on account of the lengthy period that had elapsed since the commission of the acts concerned (see, *mutatis mutandis*, *X v. Germany*, cited above, p. 116). In such cases much archive research is generally required in order to obtain documentary evidence of the allegations and sensitive and careful handling of surviving witness testimony is required. The applicant's role in the functioning of the extermination camp also involved sensitive and intricate questions of a historical and legal nature. This is illustrated by the evolving domestic case-law, culminating in the landmark decision of the Munich Regional Court in 2011, according to which contributing to the functioning of an extermination camp was to be classified as aiding and abetting murder (see paragraph 13 above).

62. However, the Court emphasises that the second set of proceedings lasted only from 17 February 2014 to 20 September 2016 at two levels of jurisdiction or until 20 July 2017 at three levels of jurisdiction if the proceedings before the Federal Constitutional Court had been considered. There are no indications that the authorities' conduct caused any delays in the proceedings. Taking into account all the relevant factual and legal elements of the present case, and especially the criminal charges of aiding and abetting 300,000 counts of murder, the Court considers that the duration of the proceedings was clearly not excessive and that the reasonable time requirement has not been breached.

63. It follows that this part of the complaint concerning the second set of criminal proceedings is manifestly ill-founded within the meaning of Article 35 § 3(a) of the Convention, and it must be rejected under Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 12 November 2020.

Victor Soloveytchik Registrar	Síofra O'Leary President