



# Germany

## Ratified the European Convention on Human Rights in 1952

### National Judge: Angelika Nußberger

[Judges' CVs](#) are available on the ECHR Internet site

Previous Judges: Hermann MOSLER (1959-1980), Rudolf BERNHARDT (1981-1998), Georg RESS (1998-2004), Renate JAEGER (2004-2010)

The Court dealt with 638 applications concerning Germany in 2017, of which 621 were declared inadmissible or struck out. It delivered 16 judgments (concerning 17 applications), 7 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2016	2017	2018**
Applications allocated to a judicial formation	676	585	247
Communicated to the Government	48	19	6
Applications decided:	677	638	275
- Declared inadmissible or struck out (Single Judge)	632	605	259
- Declared inadmissible or struck out (Committee)	15	10	3
- Declared inadmissible or struck out (Chamber)	11	6	2
- Decided by judgment	19	17	11

\*\* January to July 2018

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#).

Statistics on interim measures can be found [here](#).

Applications pending before the Court on 01/07/2018	
Total pending applications*	607
Applications pending before a judicial formation:	132
Single Judge	38
Committee (3 Judges)	45
Chamber (7 Judges)	47
Grand Chamber (17 Judges)	2

\*including applications for which completed application forms have not yet been received

### Germany and ...

#### The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **668** Registry staff members.

## Noteworthy cases, judgments delivered

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### Grand Chamber

#### Concerning the publication of photographs in the press

##### [Axel Springer AG v. Germany](#)

07.02.2012

The case concerned the prohibition by the German courts of two newspaper articles about the arrest and the criminal conviction of a well-known TV actor. The applicant company invoked Article 10 (freedom of press). Jurisdiction was relinquished in favour of the Grand Chamber.

[Violation of Article 10 \(freedom of expression\)](#)

See also [press release in German](#) for the cases Von Hannover and Springer.

##### [von Hannover v. Germany](#)

07.02.2012

Complaint about the refusal of the German courts to prohibit the publication of holiday photos of the applicants (Princess Caroline von Hannover – daughter of the late Prince Rainier III of Monaco – and her husband Prince Ernst August von Hannover) taken without their consent. The impugned decisions were delivered after the Court's Caroline von Hannover judgment of 24.06.2004 (see below). The applicants relied on Article 8 (right to respect for private and family life). Jurisdiction was relinquished in favour of the Grand Chamber.

[No violation of Article 8 \(right to respect for private and family life\)](#)

##### [Khan v. Germany](#)

21.09.2016

The case concerned an expulsion order against Ms Khan, who had committed a murder in Germany in a state of mental incapacity.

The Court decided to strike the application out of the list of cases in pursuance of Article 37 § 1 (c) of the Convention.

The Court considered that there was no justification for continuing the examination of the application, since the German

Government had given an assurance that Ms Khan would not be expelled under the 4 June 2009 expulsion order against which her application had been directed.

##### [Schatschaschwili v. Germany](#)

15.12.2015

The case concerned the complaint by a man convicted of aggravated robbery and extortion, who maintained that his trial had been unfair, as neither he nor his counsel had had an opportunity at any stage of the proceedings to question the only direct witnesses to one of the crimes allegedly committed.

[Violation of Article 6 §§ 1 and 3 \(d\) \(right to a fair trial and right of a person charged with a criminal offence to examine or have examined witnesses against him\)](#)

##### [Herrmann v. Germany](#)

26.06.2012

The case concerned a landowner's complaint about being forced to accept hunting on his land, even though he is morally opposed to hunting.

[Violation of Article 1 of Protocol No. 1 \(protection of property\)](#)

The Court held in particular that the obligation to tolerate hunting on their property imposed a disproportionate burden on landowners in Germany who were opposed to hunting for ethical reasons. The Court thereby followed its findings in two previous judgments concerning hunting legislation in France and Luxembourg.

See also [press release in German](#).

##### [Gäfgen v. Germany \(no. 22978/05\)](#)

01.07.2010

Convicted of kidnapping and killing a child, the applicant alleged that the police threatened him with torture to make him reveal where the child was (at a time when they believed the boy to be still alive), and that evidence obtained by coercion was used against him in trial.

[Violation of Article 3 \(prohibition of torture and inhuman treatment\)](#)

[No violation of Article 6 \(right to a fair trial\)](#)

See also [press release in German](#).

##### [Mooren v. Germany](#)

09.07.2009

Lack of speedy review of the lawfulness of the applicant's pre-trial detention – on suspicion of tax evasion – and refusal to

grant the applicant's counsel access to the case file in the proceedings.

[Violation of Article 5 § 4 \(right to have lawfulness of detention decided speedily by a court\)](#)

[No violation of Article 5 § 1 \(right to liberty and security\)](#)

#### **Jalloh v. Germany**

11.07.2006

Administration of an emetic by force to the applicant (who was suspected of drug trafficking) to make him regurgitate bags containing drugs he was believed to have swallowed when arrested. The drugs were subsequently used as evidence in the criminal proceedings against him.

[Violation of Article 3 \(prohibition of inhuman or degrading treatment\)](#)

[Violation of Article 6 \(right to a fair trial\)](#)

#### **Sürmeli v. Germany**

08.06.2006

The case concerned the length of proceedings before the national courts. The Court concluded that a constitutional complaint to the Federal Constitutional Court could not be considered an effective remedy against excessively long court proceedings that were still pending.

[Violation of Article 13 \(right to an effective remedy\)](#)

[Violation of Article 6 § 1 \(right to a fair hearing\)](#)

#### **Jahn and others v. Germany**

30.06.2005

The applicants were required after the German reunification to relinquish, without compensation, land allocated to their ascendants in the former Soviet-occupied zone.

[No violation of Article 1 of Protocol No. 1 \(protection of property\) taken alone and in conjunction with Article 14 \(prohibition of discrimination\)](#)

#### **Sahin v. Germany & Sommerfeld v. Germany**

08.07.2003

Refusal of German courts to grant two fathers access to their children born out of wedlock.

[Violation of Article 14 \(prohibition of discrimination\) in conjunction with Article 8 \(right to respect for private and family life\)](#)

[No violation of Article 8 taken alone](#)

#### **Prince Hans-Adam II of Liechtenstein v. Germany**

12.07.2001

The monarch of Liechtenstein alleged in particular that he had no effective access to court concerning his claim for the restitution of a painting confiscated in 1946 by former Czechoslovakia, while it was in one of the family's castles on the territory of the now Czech Republic.

[No violation of Article 6 § 1 \(access to court and fairness of the proceedings\)](#)

[No violation of Article 1 of Protocol No. 1 \(protection of property\)](#)

[No violation of Article 14 \(prohibition of discrimination\).](#)

#### **Streletz, Kessler, Krenz, and K.-H.W v. Germany**

22.03.2001

The case concerned the post-reunification conviction of East German leaders for murder, because by taking part in high-level decision making they had been instrumental in the deaths of people who had tried to flee to the West between 1971 and 1989. The applicants submitted that the acts on account of which they had been prosecuted did not constitute offences at the time when they were committed and that their conviction by the German courts had therefore been unlawful.

[No violation of Article 7 \(no punishment without law\)](#)

#### **Vogt v. Germany**

26.09.1995

Applicant dismissed from civil service (Federal Republic of Germany – prior to reunification) because of her political activities within the German Communist Party (DKP).

[Violation of Article 10 \(freedom of expression\)](#)

[Violation of Article 11 \(freedom of assembly and association\)](#)

## Noteworthy cases, judgments delivered

### Chamber

#### Article 2 (right to life)

##### [Gray v. Germany](#)

22.05.2014

The case concerned the death of a patient in his home in the United Kingdom as a result of medical malpractice by a German doctor, who had been recruited by a private agency to work for the British National Health Service. The patient's sons complained that the authorities in Germany, where the doctor was tried and convicted of having caused the death by negligence, had not provided for an effective investigation into their father's death.

[No violation of Article 2 \(right to life\)](#)

#### Case dealing with Article 3 (prohibition of inhuman and degrading treatment)

##### [Hentschel and Stark v. Germany](#)

09.11.2017

The case concerned the complaint by two football supporters of having been ill-treated by the police following a match and of the inadequacy of the ensuing investigation.

[No violation of Article 3 in respect of the applicants' treatment by the police](#)

[Violation of Article 3 in respect of the investigation into their allegations](#)

##### [Wenner v. Germany](#)

01.09.2016

The case concerned the complaint by a long-term heroin addict that he had been denied drug substitution therapy in prison.

[Violation of Article 3](#)

##### [Hellig v. Germany](#)

07.07.2011

The case concerned the applicant's complaint about being placed naked in a security cell in prison for seven days.

[Violation of Article 3](#)

See also [press release in German](#).

#### Article 5

##### [Preventive detention](#)

##### [Bergmann v. Germany](#)

07.01.2016

The case concerned Mr Bergmann's preventive detention which was retrospectively extended beyond the maximum period of ten years permissible at the time of his offences and conviction.

[No violation of Article 5 \(right to liberty and security\)](#)

[No violation of Article 7 \(no punishment without law\)](#)

This was the first case in which the Court examined the compatibility with the Convention of a convicted offender's preventive detention for therapeutic treatment purposes under the new legal framework governing preventive detention in Germany.

See also press release in [German](#).

##### [H.W. v. Germany \(no 17167/11\)](#)

19.09.2013

The case concerned the review by the German courts of an offender's placement in preventive detention, which had been ordered by the sentencing court together with his conviction for sexual offences more than twelve years previously.

[Violation of Article 5 § 1 \(right to liberty and security\)](#)

##### [Haidn v. Germany](#)

13.01.2011

The case concerned the detention of the applicant for preventive purposes ordered subsequent to his conviction *for an indefinite duration* after having served his full prison sentence.

[Violation of Article 5 § 1 \(right to liberty and security\)](#)

See also [press release in German](#).

##### [Grosskopf v. Germany](#)

21.10.2010

The case concerned the applicant's placement in preventive detention after having served his full prison sentence. The Court held that a prisoner's preventive detention as ordered by the sentencing court does not in itself violate the Convention.

[No violation of Article 5 § 1 \(right to liberty and security\)](#)

See also [press release in German](#).

**M. v. Germany** (n°19359/04)

17.12.2009

The Court concluded that the retroactive extension of the preventive detention (*Sicherungsverwahrung*), of a prisoner considered dangerous to the public violated the Convention.

[Violation of Article 5 § 1 \(right to liberty\)](#)  
[Violation of Article 7 § 1 \(no punishment without law\)](#)

See also [press release in German](#).

On 13.01.2011, the Court delivered judgments in three similar applications, [Kallweit, Mautes and Schummer v. Germany](#). See also [press release in German](#).

Short-term (police) custody

**Schwabe and M.G. v. Germany**

01.12.2011

The case concerned the detention of two young men for more than five days in June 2007, to prevent them from participating in demonstrations against the G8 summit of Heads of State and Government held in Heiligendamm near Rostock, Germany.

[Violation of Article 5 § 1 \(right to liberty and security\)](#)

[Violation of Article 11 \(freedom of assembly and association\)](#)

See also [press release in German](#).

**Ostendorf v. Germany**

07.03.2013

The case concerned a football supporter's complaint about his four-hour police custody in order to prevent him from organising and taking part in a violent brawl between football hooligans.

[No violation of Article 5 § 1 \(right to liberty and security\)](#)

**Complaints under Article 6**

Right to a fair trial

**Madaus v. Germany**

09.06.2016

The case concerned the complaint by a person who had brought proceedings under the Criminal Rehabilitation Act on behalf of his late father – who had been subject to expropriation measures in the Soviet Occupied Zone of Germany – that he was not granted the opportunity of an oral hearing.

[Violation of Article 6 § 1](#)

**Furcht v. Germany**

23.10.2014

The case concerned the complaint by a man convicted of drug trafficking that the criminal proceedings against him had been unfair, as he had been incited by undercover police officers to commit the offences of which he was convicted.

[Violation of Article 6 § 1](#)

Presumption of innocence

**El Kaada v. Germany**

12.11.2015

The case concerned Mr El Kaada's complaint that the decisions of the German courts revoking the suspension of a prison sentence previously imposed on him had violated his right to be presumed innocent.

[Violation of Article 6 § 2](#)

**Karaman v. Germany**

27.02.2014

The case concerned Mr Karaman's complaint that his right to be presumed innocent was breached on account of references to his participation in a criminal offence in a judgment handed down by a German court in criminal proceedings against several of his co-suspects, who were tried separately from him.

[No violation of Article 6 § 2](#)

**Cases concerning parental authority and access – private and family life (Article 8)**

**Tlapak and Others v. Germany**  
**Wetjen and Others v. Germany**

22.03.2018

The cases concerned the partial withdrawal of parental authority and the taking into care of children belonging to the Twelve Tribes Church (*Zwölf Stämme*), living in two communities in Bavaria.

[No violation of Article 8](#)

See press release in [German](#).

**Mitzinger v. Germany**

09.02.2017

The case concerned inheritance rights of children born outside marriage. Ms Mitzinger, the applicant, complained that she could not assert her inheritance rights after her father's death in 2009, as she had been born out of wedlock and before a cut-

off point provided for by legislation in force at the time. Notably, children born outside marriage before 1 July 1949 were excluded from any statutory entitlement to inherit and from the right to financial compensation.

[Violation of Article 14 \(prohibition of discrimination\) in conjunction with Article 8](#)

**[Kuppinger \(no. 2\) v. Germany](#)**

15.01.2015

The case concerned the complaint by the father of a child born out of wedlock that the proceedings he had brought to enforce court decisions granting him contact rights with his son were excessively long and ineffective.

[Violation of Article 8 as regards the execution of an interim decision of May 2010 granting Mr Kuppinger the right to see his son](#)

[No violation of Article 8 as regards both the execution of an order on contact custodianship of September 2010 and the proceedings on the review of the contact regulations](#)

[Violation of Article 13 \(right to an effective remedy\) in conjunction with Article 8](#)

**[I.S. v. Germany \(no. 31021/08\)](#)**

05.06.2014

The case concerned a woman's complaint of not being able to have regular contact and receive information about her biological children who had been adopted by another couple.

[No violation of Article 8](#)

The Court considered that by consenting to the adoption, Ms S. had knowingly given up all rights as regards her biological children.

**[Ahrens and Kautzor v. Germany](#)**

22.03.12

The cases concerned the German courts' refusal to allow two men to respectively challenge another man's paternity, in one case of the applicant's biological daughter, in the other case of the applicant's presumed biological daughter.

[No violation of Article 8](#)

[No violation of Article 8 in conjunction with Article 14 \(prohibition of discrimination\)](#)

See also [press release in German](#).

**[Schneider v. Germany](#)**

15.09.2011

The case concerned the German courts' refusal to grant the applicant access to a

boy who he claims is his biological son and whose legal father is the mother's husband.

[Violation of Article 8](#)

See also [press release in German](#).

**[Anayo v. Germany](#)**

21.12.2010

The case concerned the German courts' refusal to grant the applicant access to his biological children with whom he had never lived.

[Violation of Article 8](#)

See also [press release in German](#).

**[Zaunegger v. Germany](#)**

03.12.2009

Impossibility for the applicant – under German law applicable at the time – to obtain joint custody of his child, born out of wedlock, against the mother's will.

[Violation of Article 14 \(prohibition of discrimination\) in conjunction with Article 8 \(right to respect for family life\)](#)

See also [press release in German](#).

**[Brauer v. Germany](#)**

28.05.2009

Inability of applicant, who was born out of wedlock before 1949 and grew up in the former GDR (Eastern Germany) while her father lived in West Germany, to exercise inheritance rights following her father's death after German reunification.

[Violation of Article 14 \(prohibition of discrimination\) in conjunction with Article 8](#)

**[Görgülü v. Germany](#)**

26.02.2004

Refusal of domestic courts to grant the applicant custody of and access to his child, placed in foster care.

[Violation of Article 8](#)

**[Kutzner v. Germany](#)**

26.02.2002

Withdrawal of parental authority because the parents did not have the "intellectual capacity required" to bring up their children.

[Violation of Article 8](#)

**Other cases concerning the respect for private life (Article 8)**

**[M.L. and W.W. v. Germany](#) (nos. 60798/10 and 65599/10)**

28.06.2018

The case concerned the refusal by the Federal Court of Justice to issue an injunction prohibiting three different media from continuing to allow Internet users access to documentation concerning the applicants' conviction for the murder of a famous actor and mentioning their names in full.

[No violation of Article 8](#)

See press release in [German](#).

**[Fuchsmann v. Germany](#)**

19.10.2017

The case concerned the German courts' rejection of the request by an internationally active entrepreneur for an injunction against certain statements about him in an article published in the online edition of the *New York Times*.

[No violation of Article 8](#)

**[Sommer v. Germany](#)**

27.04.2017

The case concerned a complaint brought by a criminal defence lawyer, Ulrich Sommer, about an inspection of his professional bank account by the public prosecution office. The prosecuting authorities' requests to inspect his account was made in the context of a criminal investigation into organised fraud, one of the suspects being a client of Mr Sommer.

[Violation of Article 8](#)

**[K.S. and M.S. v. Germany](#) (no. 33696/11)**

06.10.2016

The case concerned a search of a couple's home because they were suspected of tax evasion.

[No violation of Article 8 \(right to respect for the home\)](#)

**[Kahn v. Germany](#)**

17.03.2016

The case concerned the repeated publication of photos of the children of Oliver Kahn, former goalkeeper of the German national football team in two magazines aimed at the general public, in

spite of a blanket ban on publication ordered by a court.

[No violation of Article 8](#)

**[Bohlen v. Germany](#)**  
**[Ernst August von Hannover v. Germany](#)**

19.02.2015

The cases concerned the use in humorous cigarette advertisements of the first names of two public figures in Germany and of news items about them, without their consent. The advertisements in question referred, respectively, to a book published by the musician Dieter Bohlen and to altercations in which Ernst August von Hannover had been involved.

[No violation of Article 8](#)

**[von Hannover v. Germany \(no. 3\)](#)**

19.09.2013

The case concerned a complaint lodged by Princess Caroline von Hannover relating to the refusal of the German courts to grant an injunction prohibiting any further publication of a photograph of her and her husband taken without their knowledge while they were on holiday. The photograph was accompanied by an article about the trend amongst the very wealthy towards letting out their holiday homes.

[No violation of Article 8](#)

The Court held that the German courts had taken into consideration the essential criteria and the Court's case-law in balancing the different interests at stake in the case.

**[Koch v. Germany](#)**

19.07.2012

The case concerned the German authorities' refusal to grant Mr Koch's late wife, who was almost completely paralysed and in need of artificial ventilation, authorisation to acquire a lethal dose of medication enabling her to commit suicide.

[Violation of Article 8](#)

The Court held that the refusal of the German courts to examine the merits of Mr Koch's complaint about that decision, brought on behalf of his wife and on his own behalf, violated his procedural rights under Article 8.

[See also press release in German.](#)

**[Stübing v. Germany](#)**

12.04.2012

The case concerned the applicant's conviction and prison sentence for an

incestuous relationship with his younger sister whom he had only met as an adult, having been adopted by his foster family, and with whom he had four children.

[No violation of Article 8](#)

[See also press release in German](#)

### **Obst and Schüth v. Germany**

23.09.2010

Both cases concerned the applicants' dismissal from employment with a Church for engaging in an extra-marital relationship. Mr Obst held the post of European public relations officer within the Mormon Church; Mr Schüth was the organist and choirmaster in a Catholic parish in Germany.

[No violation of Article 8 in the case of Mr Obst](#)

[Violation of Article 8 in the case of Mr Schüth](#)

See also [press release in German](#).

### **Storck v. Germany**

16.06.2005

Applicant's confinement to a locked ward of a psychiatric clinic without a court having ordered her placement or treatment.

[Violation of Articles 5 § 1 \(right to liberty and security\)](#)

[Violation of Article 8](#)

### **Caroline von Hannover v. Germany**

24.06.2004

Failure of German courts to afford applicant (daughter of the late Prince Rainier III of Monaco) adequate protection from the publication of photographs taken without her knowledge by paparazzi and showing her in her private life.

[Violation of Article 8](#)

### **Cases concerning freedom of thought, conscience and religion (Article 9)**

#### **Wasmuth v. Germany**

17.02.2011

The applicant complained of the obligation, for the purpose of tax collection, to inform his employer and the authorities about his non-affiliation with any religious group authorised to levy church tax.

[No violation of Articles 8 \(right to respect for private and family life\) or 9](#)

See also [press release in German](#).

#### **Siebenhaar v. Germany**

03.02.2011

The applicant complained of her dismissal as an employee of a Protestant kindergarten for active membership in another religious community.

[No violation of Article 9](#)

See also [press release in German](#).

### **Cases concerning freedom of expression (Article 10)**

#### **Axel Springer SE and RTL Television GmbH v. Germany**

21.09.2017

The case concerned the complaint by two media companies about a judicial order banning the publication of images in which the defendant in a criminal trial for murder could be identified.

[No violation of Article 10](#)

#### **Annen v. Germany**

26.11.2015

The case dealt with a civil injunction by the German courts which prohibited an activist from continuing to distribute anti-abortion leaflets in the vicinity of a day clinic which performed abortions, and from continuing to list on his website the names of the doctors running the clinic.

[Violation of Article 10 on account of the order to stop distributing the leaflets in question](#)

[Violation of Article 10 in its procedural aspect, on account of the order to stop listing the names of the doctors on the website in question](#)

#### **Axel Springer AG (no. 2) v. Germany**

10.07.2014

The case concerned a German courts' banning order against the publisher of the daily newspaper *Bild* to further publish newspaper articles about suspicions and doubts on the part of Mr Thiele – deputy president of the Liberal Democratic Party's (FDP) parliamentary group – with regard to the conditions and circumstances preceding former Chancellor Schröder's appointment as chairman of the supervisory board of the German-Russian consortium *Konsortium Nordeuropäische Gaspipeline* (NEGP).

[Violation of Article 10](#)



### **Brosa v. Germany**

17.04.2014

The case concerned a court injunction prohibiting Mr Brosa from distributing a leaflet in which he called not to vote for a candidate for local mayor who allegedly provided cover for a neo-Nazi organisation.

#### **Violation of Article 10**

The Court held in particular that the German courts had failed to establish that it was necessary to put the protection of the candidate's personality rights above Mr Brosa's freedom of expression.

### **Peta Deutschland v. Germany**

08.11.2012

The case concerned a civil injunction which prevented the animal rights organisation PETA from publishing a poster campaign featuring photos of concentration camp inmates along with pictures of animals kept in mass stocks.

#### **No violation of Article 10**

The Court held in particular that a reference to the Holocaust had to be seen in the specific context of the German past. In that light, the Court accepted that the German courts had given relevant and sufficient reasons for granting the civil injunction.

### **Heinisch v. Germany**

21.07.2011

The case concerned the dismissal without notice of a geriatric nurse after having brought a criminal complaint against her employer alleging deficiencies in the care provided.

#### **Violation of Article 10**

See also [press release in German](#).

### **Aydin v. Germany**

27.01.2011

The applicant, a Turkish national of Kurdish origin, complained about her criminal conviction for having signed a declaration in support of the Workers' Party of Kurdistan (PKK), an organisation which had been banned by the German authorities.

#### **No violation of Article 10**

### **Hoffer and Annen v. Germany**

13.01.2011

The case concerned the applicants' conviction of defamation for statements made in an anti-abortion pamphlet they distributed in front of a medical centre.

#### **No violation of Article 10**

Violation of Article 6 § 1 (right to a fair trial within a reasonable time)

#### **Article 11**

**(freedom of assembly and association)**

### **Geotech Kancev GmbH v. Germany**

02.06.2016

The case concerned a company's complaint about its obligation to participate in a social welfare fund jointly set up by employers' associations and the trade union in the building industry.

No violation of Article 11

No violation of Article 1 of Protocol No. 1 (protection of property)

#### **First pilot judgment in respect of Germany**

### **Rumpf v. Germany**

02.09.2010

The case concerned the excessive length of proceedings before the domestic courts, a recurring problem underlying the most frequent violations of the Convention found in respect of Germany. The Court held that Germany had to introduce within one year an effective domestic remedy against excessively long court proceedings.

Violation of Article 6 § 1 (right to a fair hearing within a reasonable time)

Violation of Article 13 (right to an effective remedy)

See also [press release in German](#).

#### **Case dealing with the protection of property**

**(Article 1 of Protocol No. 1)**

### **Althoff and Others v. Germany**

08.12.2011

The case was brought by a group of heirs of an owner of property, which was expropriated at the time of the socialist German Democratic Republic (GDR) and which had previously belonged to Jewish owners who were forced to sell it under the Nazi regime. The applicants complained that the Property Act, whose purpose was to settle property conflicts on the territory of the former GDR, was amended with retrospective effect in 1998.

Violation of Article 1 of Protocol No. 1

See also [press release in German](#).

## Noteworthy cases, decisions delivered

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### **Nix v. Germany**

Decision of 05.04.2018

The case concerned Mr Nix's conviction for posting a picture on his blog in 2014 of the former SS chief Heinrich Himmler in SS uniform wearing a swastika armband.

Application declared inadmissible as the complaint was manifestly ill-founded.

See press release in [German](#).

### **X v. Germany (no. 54646/17)**

Decision of 30.11.2017

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the Convention, M. X complained, in particular, that his removal to Russia would expose him to the risk of being tortured, placed under surveillance, detained or subjected to a forced disappearance. Relying on Article 8 (right to respect for private and family life) of the Convention, he also complained that he would be torn from his family and the country in which he has lived for the past 15 years. Lastly, the applicant alleged under Article 13 (right to an effective remedy) of the Convention that the domestic courts had not sufficiently assessed the situation in which he would find himself if he were deported to Russia.

Application declared inadmissible for non-exhaustion of domestic remedies.

### **Perelman v. Germany**

Decision of 06.07.2017

The application concerned the complaint by a French couple that, on moving to Germany and declaring to the authorities that their religion was "Mosaic", they were considered members of the Frankfurt Jewish community without their consent.

Application declared inadmissible for failure to exhaust domestic remedies.

### **Nationaldemokratische Partei Deutschlands (NPD) v. Germany**

Decision of 27.10.2016

The case concerned a political party, the NPD, and its complaint about being referred to and stigmatised as being both far-right and unconstitutional. In particular, the party alleged that there had been a wide range of infringements of its legal rights in Germany (amounting to a *de facto* ban), and that it had had no means to redress

these. Examples of alleged violations included the dismissal of its members from jobs in public service; the inability of the party to open bank accounts; and the prevention of its candidates from standing in elections.

The Court declared the application inadmissible because the complaint was manifestly ill-founded.

### **Sihler-Jauch and Jauch v. Germany**

Decision of 24 May 2016

The case concerned the publication of an article in the German weekly magazine *Bunte* about the wedding of a well-known TV presenter, and his and his wife's unsuccessful attempts before the German courts to obtain damages.

The Court declared the application inadmissible as being manifestly ill-founded.

### **Fuchs v. Germany**

Decision of 27.01.2015

The case concerned the complaint by a lawyer – relying in particular on Article 10 (freedom of expression) of Convention – of criminal and disciplinary sanctions imposed on him for, among other things, defamatory statements against an expert for the prosecution, which the lawyer had made while representing a client.

The Court declared the application inadmissible as being manifestly ill-founded.

### **Klausecker v. Germany**

### **Perez v. Germany**

Decisions of 06.01.2015

The cases concerned complaints related to employment in international organisations – the European Patent Office and the United Nations (UN) – and the alleged lack of access to the national courts in respect of those complaints.

In its decisions in these cases, the Court has – by a majority in the case of *Klausecker* and unanimously in the case of *Perez* – declared the applications inadmissible.

### **Zierd v. Germany**

Decision of 08.04.2014

Before the Court, Ms Zierd complained about the forced administration of medication on her late son during detention in a psychiatric hospital.

The applicant relied on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 5 (right to liberty and security) and 8 (right to respect for private and family life) of the Convention.

The Court decided to strike the application out of its list of cases as it received a proposal of [unilateral declaration](#) from the German Government.<sup>1</sup>

### **Baudler, Reuter and Müller v. Germany**

Decisions of 06.12.2011

The cases of *Baudler* and *Reuter* concerned decisions by the Protestant Church to place one clergyman on leave of absence and to oblige another to take early retirement. The case of *Müller* concerned a decision by the Salvation Army to terminate the missionary service of two officers. Relying on Article 6 § 1 (right of access to a court), the applicants complained that they did not have access to a court in order to obtain a review of the ecclesiastical measures taken, because the national courts had ruled that the impugned decisions were an internal Church matter and therefore not subject to judicial review.

The Court declared the complaints inadmissible, holding in particular, in the cases of *Baudler* and *Reuter*, that the proceedings instituted by the applicants had not related to a right recognised under German law such that Article 6 of the Convention could be brought into play. In the case of *Müller*, the Court concluded that the applicants could not argue that they had been deprived of the right to obtain a decision on the merits of their claim.

See also [press release in German](#).

### **Dojan and others v. Germany**

Decision of 13.09.2011

The case concerned the complaints by five married couples about the authorities' refusal to exempt their children from mandatory sex education classes and other school activities which they alleged had constituted a disproportionate restriction of their right to educate their children in conformity with their religious convictions.

The Court declared the complaint inadmissible, holding in particular that

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<sup>1</sup> In a case before the European Court of Human Rights, where a friendly settlement procedure has been unsuccessful, the respondent Government may make a declaration acknowledging the violation of the European Convention on Human Rights and undertaking to provide the applicant with redress.

there was no indication that the classes and activities at issue had put into question the parents' sexual education of their children based on their religious convictions. Neither had the school authorities manifested a preference for a particular religion or belief within those activities.

See also [press release in German](#)

### **Sfountouris and Others v. Germany**

Decision of 31.05.2011

The case concerned the refusal of the German courts to award compensation to descendants of the victims of an SS massacre in Greece in 1944. The applicants relied on Article 1 of Protocol No. 1 (protection of property) and Article 14 (prohibition of discrimination).

The Court declared the complaint inadmissible, holding in particular that the applicants had no legitimate expectation to be able to benefit from compensation for the damages sustained.

See also [press release in German](#).

### **Bock v. Germany**

Decision of 19.01.2010

The case concerned the excessive length of proceedings before the administrative court concerning a claim for 7.99 EUR. The applicant complained under Articles 6 § 1 (right to a fair hearing within a reasonable time) and 13 (right to an effective remedy). The Court considered the complaint an abuse of the right of application.

See also [press release in German](#).

### **Appel-Irrgang v. Germany**

Decision of 06.10.2009

The case concerned mandatory ethics classes for pupils of grade 7 to 10 in Berlin, which the applicants opposed. They relied on Article 9 (freedom of thought, conscience and religion) and Article 2 of Protocol No. 1 (right to education).

The Court declared the complaint inadmissible, holding in particular that according to the law in question the ethics classes' aim was to examine fundamental questions of ethics independently of pupils' cultural, ethnic and religious origins and that the classes were therefore in conformity with the principles of pluralism and objectivity embodied in Article 2 of Protocol No. 1.

### [von Maltzan and others v. Germany](#)

Decision of 02.03.2005

The cases concerned the indemnification and compensation terms for those whose property was expropriated either after 1949 in the GDR (Eastern Germany) or between 1945 and 1949 in the former Soviet Occupied Zone of Germany. The applicants relied in particular on Article 1 of Protocol No. 1 (protection of property) and Article 14 (prohibition of discrimination) taken together with Article 1 of Protocol No. 1.

[Applications inadmissible](#)

## Noteworthy pending cases

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### Grand Chamber

#### **Ilseher v. Germany (nos. 10211/12 and 27505/14)**

30.05.2017

The case concerns the lawfulness of a convicted murderer's preventive detention. Relying on Article 5 § 1 (right to liberty and security) and Article 7 § 1 (no punishment without law) of the European Convention, Mr Ilseher complains that his retrospective preventive detention has violated his right to liberty, and his right not to have a heavier penalty imposed than the one applicable at the time of his offence. He also complains under Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) of the Convention about the duration of the proceedings for review of his provisional preventive detention and under Article 6 § 1 (right to a fair trial) about the lack of impartiality of one of the judges who had ordered his retrospective preventive detention.

In its Chamber [judgment](#) of 2 February 2017, the Court held, unanimously, that there had been no violation of Article 5 § 1 or Article 7 of the Convention on account of Mr Ilseher's retrospective preventive detention from the moment when he was placed in a centre for psychiatric treatment, namely 20 June 2013 onwards; no violation of Article 5 § 4 on account of the duration of the proceedings for review of Mr Ilseher's provisional preventive detention; and no violation of Article 6 on account of the alleged lack of impartiality of one of the judges who had ordered his retrospective preventive detention. Furthermore, the Chamber decided,

unanimously, to strike out of its list of cases the part of the application concerning Mr Ilseher's preventive detention from 6 May 2011 until 20 June 2013.

The case was [referred to the Grand Chamber on 29 May 2017](#)

Grand Chamber [hearing](#) on 29 November 2017

### Chamber

#### **Akbay v. Germany (no. 40495/15)**

Case [communicated](#) to the German Government in June 2017

The case concerns the conviction of Namik Akbay, the deceased husband of the applicant Yildiz Akbay, of drug offences, committed jointly with others. In its judgment of 7 November 2012, confirmed on appeal, the Berlin Regional Court found that Namik Akbay had been unlawfully incited by State authorities to commit the offences in question. It therefore mitigated his sentence.

The applicant claims that her husband's conviction following the entrapment by State authorities without a sufficient legal basis and without his having been able to cross-examine the police informer involved violated Article 6 (right to a fair trial) of the Convention.

See also two related communicated cases [Usul v. Germany](#) (no. 37273/15) and [Soytürk v. Germany](#) (no. 40913/15).

#### **Hanan v. Germany (no. 4871/16)**

Case [communicated](#) to the German Government in September 2016

The case concerns an airstrike in Afghanistan that killed up to 142 persons and was ordered by a Colonel of the German armed forces, acting in the framework of an UN mission (ISAF). Among the dead were the two sons of the applicant.

In the present case, Mr Hanan complains under Article 2 (right to life) and 13 (right to an effective remedy) about the ineffectiveness of the investigation against the responsible German soldiers and the lack of remedies to challenge the effectiveness of this investigation.

#### **Wunderlich v. Germany (no. 18925/15)**

Case [communicated](#) to the German Government in August 2016

The case concerns the deprivation of certain custody rights and the subsequent

placement of the applicants' children in public care, after the applicants had consistently refused to send them to school.

The applicants complain under Article 8 (right to respect for private and family life) of the Convention about the forced removal of their children and the following three weeks of separation. Furthermore, invoking Article 8 and Article 2 of Protocol No. 4 (freedom of movement) of the Convention, the applicants complain that legal custody was partially transferred for one year preventing them from leaving the country.

**Saure v. Germany (nos. 4550/15, 6091/16, 6106/16 and 8819/16)**

Cases communicated to the German Government in June 2016

Mr Saure is a journalist of "BILD Zeitung", a daily newspaper with a large circulation. He has lodged several applications with the Court:

The application [no. 4550/15](#) concerns access to information held by the German Intelligence Service (*Bundesnachrichtendienst*) concerning Adolf Eichmann.

The application [no. 6091/16](#) concerns access to information held by the Ministry of Justice of the *Land* Brandenburg concerning judges and a prosecutor in the *Land* Brandenburg who had previously worked for the Ministry of Security of the former German Democratic Republic.

The application [no. 6106/16](#) concerns access to information held by the German Intelligence Service concerning the previous membership of its official and unofficial employees in the NSDAP, the SS, the Gestapo or other Nazi organisations.

The application [no. 8819/16](#) concerns access to information held by the German Intelligence Service regarding Uwe Barschel, a former prime Minister of the *Land* Schleswig-Holstein who was found dead in his hotel in 1987.

**Breyer v. Germany (no. 50001/12)**

Case [communicated](#) to the German Government in March 2016

The case concerns storage of personal information: the applicants complain that their personal information is stored by their respective service providers, due to a legal obligation on the providers to store personal details of all their customers, even

of users of pre-paid mobile phone SIM cards.

The applicants rely on Articles 8 (right to private life) and 10 (freedom of expression) of the Convention.

**Marx v. Germany (no. 52095/13)**

Case [communicated](#) to the German Government in March 2016

Complaint brought by a well-known right-wing politician that the domestic authorities refused to register him as a candidate for the 2008 elections of mayor of Schwerin (capital of the *Land* Mecklenburg-Western Pomerania) because of his membership of the NPD (Nationaldemokratische Partei Deutschlands). Mayors in Germany are employed as temporary civil servants and one of the requirements of employment under civil-service law is to have loyalty to the German Basic Law, which Mr Marx was found to be lacking due to his membership of the NPD.

Mr Marx complains under Articles 10 (freedom of expression) and 11 (freedom of association) of the Convention.

**Storck v. Germany (no. 2) (no. 486/14)**

Case [communicated](#) to the German Government in November 2015

The case concerns the domestic courts' refusal to reopen the civil proceedings against the H. clinic following the judgment of the European Court of Human Rights in the applicant's case [Storck v. Germany](#) finding a violation of Article 5 § 1 (right to liberty and security) and Article 8 (right to respect for private and family life) of the Convention and their failure to grant the applicant legal aid for bringing an action for retrial of her case.

Ms Storck relies on Articles 1 (obligation to respect human rights), 5 § 1 (right to liberty and security), 6 § 1 (right to a fair trial), 8 (right to respect for private and family life), 13 (right to an effective remedy), 14 (prohibition of discrimination) and 46 (binding force and execution of judgments) of the Convention and Article 1 of Protocol No. 1 (protection of property) to the Convention.

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