



Last update: 27/09/2019

## Germany

Membership to the Council of Europe	13 July 1950
Entry into force of the European Convention on Human Rights	3 September 1953
First case under supervision of execution	<b>König</b> (6232/73) Judgment final on 28 June 1978
Total number of cases transmitted for supervision since the entry into force of the Convention	224
Total number of cases closed by final resolution	208

### MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION\*

#### > Conditions of detention - Health care

**Failure of prison authorities to seek independent and specialist medical expert advice on the adequate medical treatment to be provided to a drug-addicted prisoner.**

**Wenner** (62303/13)  
Judgment final on 01/12/2016

**Status of execution**  
Standard supervision

#### > Functioning of justice

**Conviction and sentencing to prison for drug offences committed on incitement** by undercover police officers, essentially based on evidence obtained as a result of that entrapment.

**Furcht** (54648/09)  
Judgment final on 23/01/2015

**Status of execution**  
Standard supervision

**Violation of presumption of innocence** on account of the domestic courts' reasoning when revoking the suspension of a prison sentence imposed earlier on the applicant, by clearly declaring him guilty of a new offence before he was proved guilty by a competent trial courts in a final judgment.

**El Kaada** (2130/10)  
Judgment final on 12/02/2016

**Status of execution**  
Standard supervision

#### > Freedom of expression

**Adoption of civil injunctions unduly limiting freedom of expression following criticisms of doctors carrying out abortion.**

**Annen** (3690/10)  
Judgment final on 26/02/2016

**Status of execution**  
Standard supervision

\* Detailed information concerning the Committee of Ministers' supervision of the execution of judgments and decisions of the European Court of Human Rights, notably the distinction between enhanced and standard supervision, are available on [the website of the Department for the Execution of Judgments](#).

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

## &gt; Lawfulness of detention and related issues

The obligation of a judicial review of the necessity of the execution of preventive detention after the prison sentence has been served was extended to cases of retrospective preventive detention as well as to cases where the court at the time of sentencing reserved the right to order preventive detention subsequently. The deadlines for reviewing currently executed preventive detentions were reduced from every two to every year, and after preventive detention from more than ten years to every nine months.

*H.W.* (17167/11)  
Judgment final on 17/02/2014

Final Resolution  
CM/ResDH(2017)344

*Schönbrod* (48038/06)  
Judgment final on 24/02/2012

Final Resolution  
CM/ResDH(2017)343

Wide dissemination of the judgment to avoid domestic courts' failure to act with the necessary special diligence in conducting trial resulting in excessive length of detention on remand.

*El Khoury* (8824/09)  
Judgment final on 09/10/2015

Final Resolution  
CM/ResDH(2019)118

## &gt; Detention and other rights

A right of access to information to the investigation file for the defendant or his counsel, relevant for the evaluation of the lawfulness of detention on remand, was introduced by a new law of 2010.

*Mooren* (11364/03)  
Judgment final on 09/07/2009

Final Resolution  
CM/ResDH(2011)216

## &gt; Functioning of justice

A two-steps compensatory remedy for excessively long proceedings was introduced in December 2011.

*Rumpf* group (46344/06)  
Judgment final on 02/12/2010

Final Resolution  
CM/ResDH(2013)244

An appeal court can no longer dismiss an appeal on point of law if an authorized counsel appears at the main appeal hearing in the defendant's place.

*Neziraj* (30804/07)  
Judgment final on 08/02/2013

Final Resolution  
CM/ResDH(2018)61

## &gt; No punishment without law

Retrospective ordering or extension of "preventive detention" of dangerous offenders after completion of their sentences declared unconstitutional in 2011; the "Act to Effect Implementation under Federal Law of the Distance Requirement in the Law Governing Preventive Detention" 2013 set out guiding principles regarding the treatment and placement of preventive detainees; transitional arrangements had been defined by the Constitutional Court with an emphasis on a freedom-oriented and therapy-based concept of preventive detention.

*M.* group (19359/04)  
Judgment final on 10/05/2010

Final Resolution  
CM/ResDH(2014)290

\*\* This section may also include certain major reforms already implemented in the context of cases still pending.

For a thorough overview of reforms adopted since the entry into force of Protocol No. 11 in 1998 see the [Annual Report 2015](#), Part IV "Main achievements". As regards the period 1959-1998, see the overview provided by the European Court in its special publication "Survey : 40 years of activity", section IV "Effects of judgments and decisions" – both documents, together with a number of additional ones, are available also on the website of the Department for the Execution of Judgments of the European Court of Human Rights.

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

## &gt; Protection of private and family life

The legal position of fathers of children born out of wedlock in the field of access and information rights was strengthened in 2013. Joint custody shall be granted, upon motion by a parent, as far as it's not contrary to the child's best interest.

*Zaunegger* (22028/04)  
Judgment final on 03/03/2010

Final Resolution  
CM/ResDH(2014)163

New legislation from 2013 provides for an access and information right for biological fathers having shown a sustained interest in the child, if such access is in the child's best interests independently of whether the biological father already has a social-family relationship with the child or not. The biological paternity of the claimant is therefore to be examined during proceedings on access or information, and is to be ascertained if necessary by the taking of evidence.

*Anayo* group (20578/07)  
Judgment final on 21/03/2012

Final Resolution  
CM/ResDH(2017)63

## &gt; Freedom of expression

In 2001, the Federal Constitutional Court held that the lodging of a criminal complaint alleging shortcomings in care provided by a private employer could, as a rule, not justify a dismissal without notice from an employment relationship, unless the employee had knowingly or frivolously reported incorrect information ("whistle blowing").

*Heinisch* (28274/08)  
Judgment final on 21/10/2011

Final Resolution  
CM/ResDH(2017)62

## &gt; Protection of property

Abolition of the obligation to tolerate hunting on one's property against the respective landowners' ethical convictions, by amendment to the Federal Hunting Act in 2013.

*Herrmann* (9300/07)  
Judgment final on 26/06/2012

Final Resolution  
CM/ResDH(2016)188

## &gt; Discrimination

A new uniform system eliminating foreigners' discrimination on the basis of the temporary character of their residence permits with regard to entitlement to child benefits entered into force retroactively in 2006.

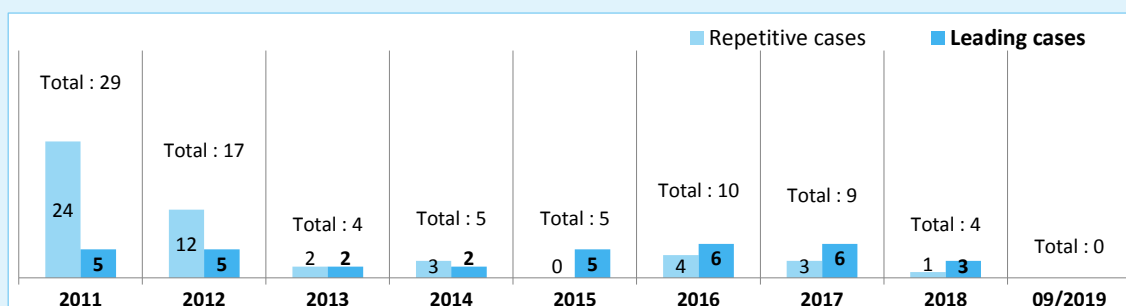
*Niedzwiecki and Okpiz* ( 58453/00  
and 59140/00)  
Judgment final on 15/02/2006

Final Resolution  
CM/ResDH(2011)111

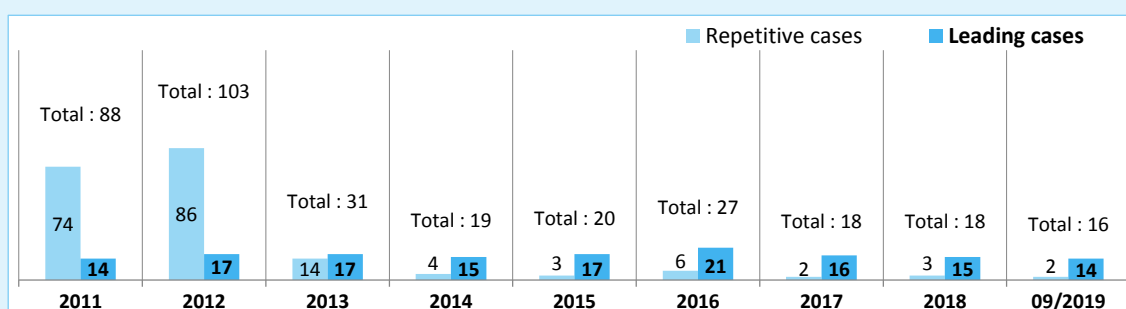
## STATISTICS\*\*\*

## New cases

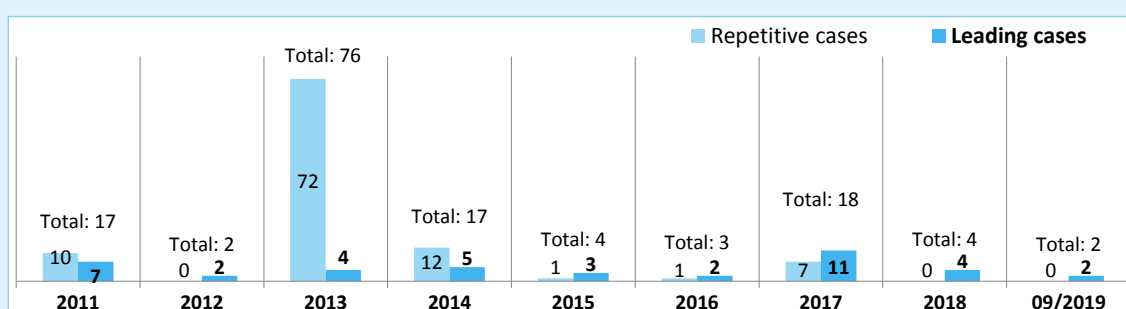
(judgments transmitted for supervision of their execution during the year)



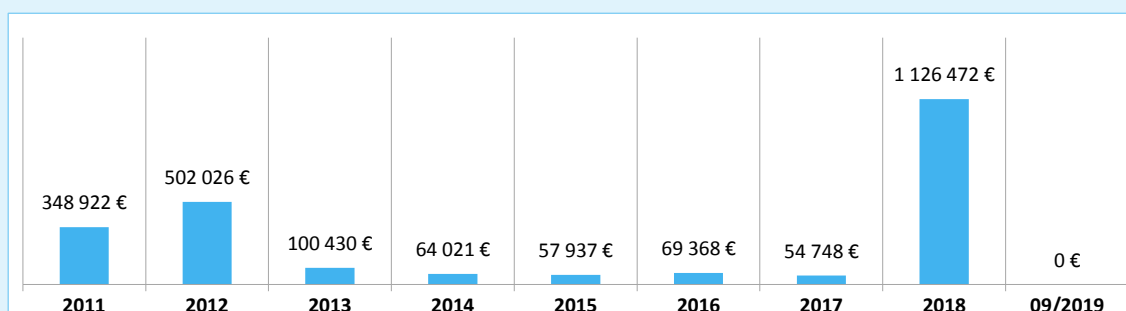
## Pending cases



## Cases closed by final resolution



## Just satisfaction awarded by the European Court

\*\*\* Detailed statistics are available in the [annual reports](#) of the Committee of Ministers. Figures are reported as they appear in the annual report for each year.