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ADMINISTRATIVE COURTS OF THE EUROPEAN COMMUNITY MEMBER
STATES

National report
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by

the German Delegation

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The Supreme Administrative Courts
and the regulation of the quantity and duration of procedures

I. Legal Principles

The quantity and duration of procedures before the administrative courts has for a long time been an unresolved problem in the Federal Republic of Germany. Whilst the legislative bodies and courts alike have made great efforts to relieve this situation, they have not been able to point to a decisive success. This can easily be demonstrated using the statistics available up to 1987.

1. Present position

1.1. Quantity of proceedings

The number of actions brought before the administrative courts was 65,938 in 1975 as against 119,674 in 1987. In other words, this figure has almost doubled in the period in question. At the Higher Administrative Courts, the superior instance in the administrative jurisdiction of the Federal Republic of Germany, the number of appeals on points of law and fact lodged in the same period rose from 9,019 to 17,862, whereby the last figure also includes appeals (Beschwerden) against refusal of leave to appeal on points of law and fact (Berufung). At the Federal Administrative Court, the supreme instance in administrative jurisdiction, the recorded number of appeals on questions of law only (Revisionen) and of appeals against refusal of leave to appeal on questions of law increased from 1,672 in 1975 to 2,593 in 1987. These figures fail in part to take account of the numerous actions which relate to specific measures or specific areas of the law, and which have produced an exceptionally heavy workload for the courts at all instances. The plan to build a new airport in Munich led on its own to 5000 actions being brought against it at Munich Administrative Court. Again, every year more than 100,000 persons seek asylum in the Federal Republic of Germany, with the applications they make to the relevant authority largely remaining without success. Judicial proceedings for the granting of asylum reached a peak in 1980 with 48,781 actions, and then dropped to 10,828 by the year 1984 following legislative measures before rising again to

35,363 actions in 1987. At the Federal Administrative Court, appeals in asylum cases reached an all-time high in 1982, with 10,003 "Beschwerden" and 1,213 appeals on points of law. These represented over half of all the appeals lodged with the Federal Administrative Court. This situation has prompted the legislator to restrict the possibility of bringing asylum cases before the Federal Administrative Court.

Also of great significance at first and second instance are, in quantitative terms, proceedings seeking temporary injunctions. Where an administrative body is planning some kind of definite intervention, the legal remedies available against such measures generally have a suspensory effect - that is, the measures may not be implemented until a final decision has been taken. There is no such suspensory effect where the relevant statute expressly indicates this (e.g. in the event of a request for payment of public taxes and charges, or orders and measures by law enforcement officers of the police which brook no delay). Another case in point here would be an authority ordering immediate enforcement in the public interest or in the overwhelming interest of a party. However, in these cases, too, accelerated proceedings independent of the action brought may result in the suspensive effect being temporarily re-instated by judicial decision.

Turning to social welfare the court can issue a temporary injunction before an action has been brought. Proceedings for temporary injunctions have quadrupled in the period here taken as a basis: 23,972 in 1975 as against 91,369 in 1987. A significant factor here has been special developments in specific areas. Alongside asylum cases, we can set in particular proceedings seeking admission

to university in subjects where student places are restricted (between 20,000 and 40,000 originating applications annually) and, in 1987, proceedings against the population census conducted in that year (about 50,000 originating applications).

1.2. Duration of proceedings

The average length of proceedings has changed only slightly in recent years at the administrative courts and Higher Administrative Courts.

Both for actions and appeals on points of law and fact, the relevant figure has been between 12 and 13 months. At the Federal Administrative Court, the duration of proceedings leading to a final decision on an appeal on questions of law went up from 20.5 months in 1975 to 22.5 months in 1987, whereas in the case of "Beschwerde" proceedings it dropped in the same period from 6.2 to 3.4 months. This means that on the whole, proceedings take too long. A person whose case goes through three instances must reckon with at least three or four years before obtaining a final decision.

1.3. Reasons for the increase in the number and duration of proceedings

Generally speaking, one can fairly assume that the average citizen's awareness and acute perception of the law have grown just as much as his determination and ability to avail himself of judicial means in asserting his rights against the administration. Frequently it is economic interest which prompts him to turn to the courts. Thus for instance it may be the

hope that he will gain time which is the motivating force - for example, where court proceedings may delay enforcement of an administrative intervention or, in the case of asylum applications, secure a temporary stay in the Federal Republic of Germany. The growth in legal expenses insurance - that is, insurance covering the cost of representation by an attorney in litigation - reduces the trouble and risks entailed by court proceedings and leads to an increased readiness to seek recourse to the administrative courts.

Alongside these subjective reasons we also find objective factors producing an increase in the number of proceedings and their duration. Thus for example we can identify a growing "legalisation" of public life, finding its expression in the vast number of laws and other norms which, with the complicated provisions they contain, are often difficult to understand and interpret and, by this fact alone, provoke legal conflicts. Court decisions themselves can sometimes result in new questions of law and in further litigation. Thus the increase in the number and intensity of checks on discretionary decisions taken by the authorities has obliged the courts to occupy themselves with areas of the administration which, in the past, concerned them but little or not at all.

To this must be added, finally, the fact that in certain domains, the administrative courts find themselves confronted with a large number of litigants,

They simply by virtue of their sheer volume affect the workload of the courts and the duration of proceedings

The actual findings and the causes named can possibly be observed in the same or similar fashion in other States as well. Any solution of the associated problems has to respect certain legal principles which, in the Federal Republic of Germany, are often guaranteed in the constitution and for this reason, could not be altered - or at least, not without considerable difficulty.

2. The position at law

2.1. The comprehensive guarantee of recourse to the court

The Basic law, the constitution of the Federal Republic of Germany, guarantees the wide availability of legal remedies. This follows not only from the general principle of the rule of law enshrined for both the Federation and the Länder in Articles 20 and 28 of the Basic Law - and not even a constitutional amendment can alter this - but also from that formal judicial protection against public authority which is guaranteed in the basic rights part of the constitution. Under Art. 19 para. 4 of the Basic Law, any person whose rights are violated by public authority shall have the possibility of recourse to the courts. Here again, it is not only a question of the basic rights guaranteed in the constitution, but rights of all kinds. In this respect, the mere allegation that a right has been violated is enough to activate this protective mechanism.

The protection under law guaranteed by Art. 19 para. 4 of the Basic Law does not admit any exception. There is no arm of public authority which cannot be submitted to a check by the courts. The judicial protection of

the citizen against public authority is - with certain exceptions (e.g. compensation claims and claims for damages, which are decided by the courts of ordinary jurisdiction) - the remit of the administrative courts. The general clause in section 40 of the Administrative Court Code opens up the avenue leading to the possibility of legal redress before the administrative courts in all litigation under public law which is not of a constitutional law nature and in this case generally decided by the Constitutional Courts of either the Federation or the Länder.

Going beyond the formal possibility of recourse to the courts, there is also a guaranteed entitlement to a judicial control which is genuinely effective. This requirement of "effective protection under law" ensures not only a thorough review by the courts of both the legal and factual aspects of measures taken by the authorities, but also a judicial decision within a reasonable period. The title given in Art. 6 para. 1 of the European Convention on Human Rights - namely, to a hearing "within a reasonable time" in respect of civil rights and criminal charges - illuminates a principle which also carries significance in administrative disputes. The protection of the law must be provided early enough to be effective - a qualification which can no longer apply where such provision is made too late. The efforts to accelerate judicial proceedings do not therefore represent a curtailment of justice, but rather - just like the check on the legality of administrative acts - a component of an effective protection under law and thus a constitutional requirement.

2.2. Independence of the courts

The endeavours to cope with and speed up administrative proceedings before the courts also have to respect another constitutional guarantee: the independence of the courts and the judges. The latter are subject only to the law and cannot be moved to another post without their consent. The independence of the courts means that every court and every judge assumes direct responsibility for tackling the work which needs to be done.

It is true that judges are also subject to supervision in carrying out their work. But such supervision can only be exercised in respect of activities which do not concern the essentials of the independence just described. Consequently, it is the court itself which determines how thoroughly and how speedily pending cases are dealt with, and how best to resolve the potential conflict between a thorough treatment and a speedy one.

2.3. Lawful judge

The guarantee that no one may be removed from the jurisdiction of his lawful judge in Art. 101 para. 1 (second sentence) of the Basic Law similarly has a bearing on the way the courts organize their work. The type of jurisdiction (whether ordinary or special), the court, the individual division or panel and the individual judge, must all be stipulated in advance - abstractly, generally,

and as unambiguously as possible. Within any court, the "lawful judge" is generally stipulated in advance for the whole of the court year. Alterations are only possible in some special cases. This means that it is not automatically possible to entrust individual cases to specific judges on account of their expertise or special qualifications, or to increase the number of judges sitting in complex cases.

2.4. Chain of instances

The guarantee of protection under the law set out in Art. 19 para. 4 of the Basic Law provides protection by the courts, not against them. Consequently, the constitution does not guarantee more than one instance for the deciding of a case. There are areas, then, where a litigant does not enjoy the possibility of an appeal on points of law and fact: The administrative court can dismiss an application for asylum as manifestly ill-founded; in this case no appeal is admitted. In matters concerning military service, community service (as an alternative to military service) and the equalization of burdens resulting from the last war and its aftermath, this kind of appeal is similarly generally ruled out. The year 1985 saw the establishment of the first instance jurisdiction of the Higher Administrative Courts for a variety of types of litigation, relating primarily to the nuclear and other power industries, waste disposal and transport. For

proceedings of this kind, therefore, there is now only one instance trying the facts. First-instance judgments, however, can still be appealed on points of law (Revision) where the general requirements for this are met. The Federal Administrative Court can exceptionally even be the sole instance, for example, where actions are brought concerning the state's supervisory role in the insurance field, or against the ban on supra-regional associations.

Nonetheless, under the Administrative Court Code, there is the general possibility of a chain of instances going from the administrative court via the Higher Administrative Court to the Federal Administrative Court. This chain of instances in administrative jurisdiction and the different tasks of the various instances must remain intact; they cannot form part of any discussion of possible ways of coping with the mass of proceedings and shortening their length.

2.5. The principle of establishing the facts ex officio

Unlike the position in civil jurisdiction, where the parties present the facts in the proceedings and have to apply for the taking of evidence, the administrative courts research the facts of their own motion. In this they are under a wide obligation to go to the bounds of what is reasonable in seeking to establish the factual position, insofar as this *is necessary* for a decision on the dispute. At the same time, of course, this duty to clear up the facts has its limits in the corresponding duty incumbent upon the parties - namely, to work together with the court by detailing the events affecting them personally, and making suggestions as to how the facts might be ascertained (in particular, by requesting the taking of evidence).

3. Possible ways of coping with the quantity and duration of proceedings

An analysis of the statistics (cf. appendix) for the quantity and duration of proceedings pending at the administrative courts shows that these two factors are in a relationship of mutual dependency and thus to a certain extent are self-regulatory: an increase in the number of actions filed also produces a rise in the number of cases dealt with. An upward trend in the number of proceedings does not necessarily have to lead to an increase in their duration

rather, such a trend - for whatever reason - can result in shorter proceedings. Conversely, the great duration of proceedings may dissuade some people from pressing ahead with an action and thus cut down the quantity of proceedings. This factual self-regulation of quantity and duration does not however solve the problem. Apart from the fact that the quantity and duration of the proceedings which remain do not give any cause for satisfaction; it hardly seems acceptable to limit a person's opportunity of legal redress by having unreasonably long proceedings as a means of deterring him from seeking to assert his rights.

Improving staffing numbers at the courts would similarly appear to be an inappropriate way of solving the problem. All told, there are about 17,000 judges in the Federal Republic of Germany, and whilst seen against this overall total the number working in administrative jurisdiction is comparatively modest, it is still very high compared to other EC Member States and rising even higher. At the Administrative courts, there was an increase from 706 judges in 1975 to 1,322 in 1987; at the Higher Administrative Court, from 249 to 393; and at the Federal Administrative Court from 46 to 52. The financial resources for a further strengthening of staff numbers at the Administrative courts are limited. Another point here is that adding to the number of judges and divisions may produce a loss of adjudicative uniformity and even frictions, which in turn can only be remedied by appellate courts and thus overall will be counter-productive as regards speeding up proceedings. As against this, the experience gained with the kinds of proceedings occurring en masse in particular would seem to indicate that equipping the courts with modern technical aids, especially the provision of modern word processing systems and a greater use of electronic

data processing, is indispensable in all areas of the work done by the courts if the administrative courts are to cope with their responsibilities in future (cf. on this Part III below).

What can be contemplated here is an attempt to influence the quantity and duration of proceedings by setting special requirements for the parties, by appropriate organisation of the work done by the judges, and by the influence of the Federal Administrative Court as part of its role as the supreme appeal court. Where there is a whole mass of proceedings relating to one specific project, or in certain specified proceedings, thought will have to be given to the taking of special measures.

II. Procedural and juridical solutions

1. Requirements set for the parties

As has already been pointed out, there can be no question of deterring the average citizen from asserting his rights against the administration. At the same time, though, access to the administrative courts ought to be limited to the violation actually claimed and emphasis placed on the duty of all parties to cooperate actively in the conducting of proceedings.

1.1. Right to introduce proceedings

German administrative procedural law is governed by the principle of legal protection for the individual. The aim of proceedings before the administrative courts is not to check on the objective legality of the act

done by the administrative authorities, but to protect the subjective rights of the individual. Accordingly, an action is only possible where the plaintiff can claim to have suffered a breach of his rights. This means, that an action cannot automatically be successful simply because the administrative act or omission forming the subject of the action is marred by a legal defect. Rather, it can only meet with success if the plaintiff has at the same time suffered a violation of his own rights as a result of the act or omission. Rights which can be regarded as qualifying for protection by the courts are all those individual interests protected by the legal order. Not only material rights, but also formal ones (e.g. right to a hearing or participation in proceedings) qualify for protection. It is similarly an entitlement of each and every citizen - and he can seek the assistance of the courts in asserting it - that where the administration has to take a decision affecting his interests, it should exercise in a proper and non-arbitrary fashion the discretion it enjoys. Collective actions or applications made in the public interest, alleging the illegality of administrative conduct or the invalidness of a norm without being personally affected, are therefore not allowed. Despite the broad area over which the current legal order still leaves the average citizen subjective rights as against the administration, this demand made on anyone wishing to introduce proceedings sets significant bounds to the number of proceedings actually brought before the administrative courts. Just as pleading a possible infringement of one's own rights is a prerequisite

for the admissibility of an action or application, so the prerequisite for leave to appeal is that the party lodging the appeal should be aggrieved by the contested decision. This also holds good where it is an administrative authority which is lodging the appeal.

1.2. Legitimate interest to take legal action

If the help of the administrative courts is to be sought, another requirement is that there should be a need for legal redress. Such a need does not exist where, in view of the special circumstances accompanying a specific case, introducing an action or making some other application to the court is not necessary - for example, because the plaintiff can realize his rights in a more straightforward manner, because for some other reason a court decision would be of no use to him, or where it is otherwise evident that the attempt to involve the court is a mischievous one.

1.3. Duty to work together with the court

It is already the case under current law that the plaintiff, in his claim for remedy, should state the matter in issue and make a specific application. Further, he should attach to his statement of claim the administrative directive being contested and the ruling on his objection issued by the authority following preliminary proceedings. In particular, he should state the facts serving to establish a cause of action. It is conducive to a shortening and speeding up of proceedings to demand of the plaintiff that he meet these requirements by a certain date and to dismiss the action as inadmissible where the plaintiff does not comply. Another possibility being considered is introducing statutory provisions which extinguish certain

rights under certain conditions - rather like what is to be found in civil procedure - so that the plaintiff who submits his claim too late can be turned away. A particular point to be stressed here is that this need not necessarily stand in contradiction to the above-mentioned duty incumbent upon the court - namely, to do all possible to establish the facts. In asylum cases, litigation can come to a close as a result of the applicant ignoring the instructions given by the court and allowing a period of more than three months to pass without pursuing the proceedings.

1.4. Compulsory representation by an attorney

Even stricter requirements in the form of obligatory representation by an attorney do not exist in administrative jurisdiction to the same extent as in civil jurisdiction. Whereas in the latter case representation by a lawyer is already an imperative at the regional court (Landgericht) - in other words, at the local level - parties to administrative litigation do not have to take the services of an attorney or an academic professor teaching law at a German university until they get to the Federal Administrative Court. Nor must the person representing them be specially admitted to practise before the Federal Administrative Court (a position which differs from that obtaining at the Federal Court of Justice - the "Bundesgerichtshof"). This less stringent requirement in administrative jurisdiction can be explained by the fact that we are here concerned with providing legal redress from measures of public administration. Up to now, it has not been possible to discern whether and to what extent compulsory representation by an attorney has contributed to keeping down the number of pro-

ceedings before the Federal Administrative Court. It may be that the recently introduced possibility of training as a specialist attorney for administrative law will result in potential litigants receiving more expert advice and thus also in a drop in the number of proceedings before the Federal Administrative Court.

1.5. Value of the matter in dispute and costs burden

Using the value of the matter in dispute to control the quantity of proceedings is not feasible in administrative jurisdiction to the extent that it is in civil proceedings, where the vast majority of the cases are pecuniary disputes and certain limits are laid down for each instance as regards the value of the matter at issue. In administrative proceedings, special leave of the court is required only for appeals on points of law and fact in connection with monetary claims up to DM 500.- and for refund proceedings between juristic persons constituted under public law up to DM 5000.-. It is planned to double these limits. Administrative cases are frequently non-pecuniary in nature, with the result that this kind of restriction on opportunities to appeal has never achieved any special significance.

The court costs and attorney's fees resulting for the plaintiff from the proceedings are determined by the value of the matter in dispute. Where the actual position reached in a dispute fails to offer any pointers which might be useful in fixing the amount at stake, the law stipulates that this should be set at the relatively low level of DM 6000.-. Consequently,

the costs risk borne by the plaintiff in administrative litigation is similarly not very high. This would also seem to be justified by the very nature of the contentious issues here - after all, we are concerned with the judicial control of measures taken by public authority. The possibility of imposing an "abuse fee" on the party concerned where legal remedies are sought which are inadmissible or manifestly ill-founded, exists only for complaints of unconstitutionality - otherwise free on principle - before the Federal Constitutional Court; it does not exist in administrative jurisdiction.

1.6. Special requirements affecting the executive

Since in administrative litigation it is mostly the public authority which is involved as defendant, one thought which might occur is also to involve the administration in the regulation of the quantity and length of proceedings both prior to and actually during the procedure. The reason why this suggests itself as an approach is that the administration just as much as the courts, is bound by the law and, in taking its decisions, has to consider both the concerns of the citizen and the public interest in avoiding or speeding up proceedings.

Before court proceedings are started, the legality and - in addition to the judicial control exercised - the expedience of the decision are examined in preliminary proceedings. In the latter, the authority initially involved has an opportunity itself to correct the ruling it has given. If it stands by its decision, then the correction can be made by

the authority dealing with the official objection to the ruling (usually the next highest authority in the administrative hierarchy).

Once court proceedings have started, the authority can still redress the grievance suffered by the plaintiff and, where the court finds against it, refrain from lodging an appeal. In Bavaria, for example, it is intended that where the court has found in favour of the citizen, an appeal should only be lodged against this decision where the public interest requires the further prosecution of the case, even taking into account the burden this will impose on the citizen in question. Important here are not only the prospects of success and the grievance which the court decision represents for the authority, but also the interest in taking off some of the pressure from the courts. A further possibility is the remittal of a case to the authority so that the facts can be further researched - something which the courts are not allowed regularly to do as procedural law stands at present. This kind of remittal could be contemplated in particular where difficult calculations are involved which are of a technical nature, and which are frequently too much for the courts themselves to deal with, thus obliging them to seek the assistance of specialists.

Alien to German administrative procedural law is any institution comparable to the "commissaire du gouvernement" in France, who is directly involved in the preparation of the oral hearing and the taking of the decision. The "representative of the public interest" proposed in a number of Länder, and the Chief Federal Attorney (Oberbundesanwalt) at the Federal Administrative

Court, have a different function. Their task is to uphold the public interest, and this is to be distinguished from the interests of the other parties, including the individual authorities. In particular, they decide on their own responsibility whether they wish to participate in a particular set of proceedings, and if so, what applications they want to make and what observations they wish to put forward. The number and duration of the proceedings is something on which they have no direct influence.

1.7. Special requirements for proceedings occurring en masse

Proceedings of this kind can arise in relation to a specific project being planned by an authority or in certain areas of the law as a result of a multitude of actions being brought which are identical or similar. There are only limited possibilities for drawing such actions together into one complex.

What might be contemplated is leaving the assertion of the right involved to a specific organization, e.g. environmental protection issues could be entrusted to an association specializing in legal matters of this kind. German federal law makes no provision for such actions brought by a group or association ("Verbandsklagen"). This is possible in some of the "Länder" only. Whilst in practice representative actions may render superfluous a vast array of proceedings

brought by separate plaintiffs, the individual cannot on the other hand be forced to allow his personal claim to be pursued in court by an association. This would contradict the tradition of German administrative jurisdiction, where pride of place is enjoyed not by an objective check on the legality of the act done or planned by the administration, but by the protection of subjective rights. The latter cannot always be reduced to an common denominator. A further point here is that the associations are not necessarily empowered to assert the rights of citizens. Thus the (additional) remedy of representative actions would not automatically lead to an easing of the burden on the courts.

Currently under discussion is the possibility of giving courts the power to instruct the parties to "mass" proceedings to appoint a common attorney or - should this not prove successful - to appoint one themselves. Even in just such an event, however, there must still remain a guarantee that the individual can assert his own rights.

2. Expedition and limitation of proceedings by the courts

The current procedural law for administrative litigation contains provisions for accelerating matters at every procedural stage. Further measures are presently under discussion.

2.1. Thorough preparation of the date for the court hearing

The presiding or the reporting judge is required to issue

all the necessary instructions in advance of the oral hearing so that the dispute can be dealt if possible at the first hearing. To the end, the parties can be asked to appear so that an attempt can be made to end the dispute by a settlement between the parties. In addition, the parties - to the extent that this is called for - should be asked to supplement or elucidate their written pleadings. In particular, the court should make preparatory arrangements for the hearing of any evidence necessary and - as far as possible - also actually take specific items of evidence before the hearing. In future, it is proposed that the reporting judge should even be empowered to take a final decision on the merits if the parties agree to this. On the other hand, placing an obligation upon the courts to set down a date for a hearing within certain time limits is hardly practicable, because fixing a firm date pre-supposes to a certain extent that the case has already progressed towards a stage where a decision might be possible. Setting too early a date can thus lead to the hearing being adjourned and therefore in the final analysis to an unnecessary immobility in the proceedings - not only for the court, but also for all the parties.

At the Federal Administrative Court, the decisions are prepared by special reports drawn up by the rapporteur and the co-rapporteur. These serve as a basis for the panel's deliberations both before and after the hearing, but are not made available to the parties.

2.2. Oral hearing or written procedure

Regularly the courts pass judgment on claims for remedy and appeals on points of law and fact on the basis of an oral hearing. Judgment can also be passed on the basis of an oral hearing where one or more of the parties fail to appear on the hearing date despite being summoned in good time, when they have been specially advised.

With the consent of the parties, the court may also deliver a judgment without an oral hearing. Dispensing in this way with the oral hearing allows the court greater flexibility in the organization of its work and can also contribute to a shortening of the proceedings. A factor which tells against this practice, however, is that the oral hearing offers the sole opportunity to set out the opposing points of view directly and so arrive at new insights and greater clarity.

The principle of oral hearing has in part already bounds set to it by statute. Court decisions which do not have the status of judgments ("Urteile"), and which instead are given in the form of an order ("Beschluss"), do not require an oral hearing. By such an order the administrative courts decide on applications for restoration of the suspensory effect of the formal objection or request for remedy and on applications for the granting of a temporary injunction, the Higher Administrative Courts on requests for review ("Beschwerden") of the orders of the administrative courts.

There are also possibilities of deciding on claims for remedy and appeals without an oral hearing, even against the wishes of the parties: inadmissible or manifestly ill-founded claims can be dismissed by the administrative court - before a date for an oral hearing has been set down - by its giving a preliminary ruling ("Vorbescheid") with grounds. In practice, the latter has not acquired any great significance for the reason, that the parties can counter this by requesting an oral hearing. The Administrative Court is empowered to decide on a claim for remedy by giving, without an oral hearing, what is known in German as a "Gerichtsbescheid" - that is, a formal court ruling. This is possible where the judges are of the unanimous view that the case does not display any particular difficulties in legal or factual terms, and where the facts have been so established as to permit a legal assessment. The only circumstances in which this does not apply is where is no possibility of appeal on questions of law and fact against the decision, or where such appeal is only possible by special leave of the court. Where this kind of appeal does take place against a "Gerichtsbescheid", an oral hearing is always necessary. Where an oral hearing has already taken place at first instance the appellate court can decide on the appeal against the judgment of the administrative court by making an order ("Beschluss") without an oral hearing. Here, however, the views of the parties must first be sought in writing. The prerequisite for such a procedure is that the judges unanimously view the appeal on points of law

and fact as ill-founded and do not consider an oral hearing necessary. Since being introduced in 1978, the "Gerichtsbescheid" and the possibility of deciding on ill-founded appeals by a "Beschluss" have made a not insignificant contribution to cutting down the length of a number of proceedings. The rule, however, is to avoid a situation in which, against the wishes of the parties, a final decision might be taken on a case without any oral hearing.

At the Federal Administrative Court, there does not seem to be any justification for restricting things just to a written procedure, since regard must be had to the plaintiff's interest in a direct submission of his legal point of view and to the public interest in hearings being conducted and decisions given on issues of fundamental importance. Another aspect to be borne in mind here is that at this level, decisions receive intense preparation by virtue of the written pleadings submitted by the parties. This, together with the circumstance that the Federal Administrative Court, compared to the courts trying the facts, generally works under less pressure of time, means that an oral hearing is unlikely in itself to cause a major delay in proceedings. In the case of appeals against refusal of leave to appeal on points of law only, the Federal Administrative Court decides by making an order ("Beschluss") without an oral hearing. The considerably shorter duration of such proceedings (cf. above 1.2.) reposes less upon the absence of an oral hearing, however, and more upon the fact that for the most part, these proceedings do not throw up any special problems.

2.3. Conflict resolution by settlement

A settlement of the dispute is likewise possible at all instances. Experience shows that it plays a bigger role at the courts responsible for trying the facts, the reason for this being that

the parties at the Federal Administrative Court are frequently seeking the clarification of fundamental legal issues and are therefore not interested in a settlement.

2.4. Committing the written decision

Where an oral hearing has been held in a case, judgment is as a rule pronounced immediately following the hearing. Alternatively, a special date can be set down for the pronouncing of the judgment, although this should not be more than two weeks after the hearing. The two-week deadline also applies where judgment is not pronounced, but instead, served on the parties. The law does however permit exceptions to this two-week period. In this event, the judgment in its entirety should then be deposited at the court's office as soon as possible after expiry of this period. Exceeding the period for setting out the full written grounds of the judgment, as described here, is particularly apt to increase the duration of proceedings where an appeal is lodged against the judgment. Only exceptionally long delays beyond the period referred to have been regarded as procedural defects in the jurisdiction.

One thing which may contribute to a quicker handling of proceedings is relieving the courts of some of the written work they have to do. Among the possibilities here is simply making reference to the grounds for previous decisions when setting out the grounds for a new decision - if and to the extent that these previous decisions, have been affirmed. Even the administrative court can desist from stating the grounds for its decision in any more detail if it follows the grounds of the contested administrative act or of the ruling on the formal objection, and if it expressly states in its decision that it is doing this. In the case of decisions on appeals, it is also unnecessary to provide any further details of the grounds if the appeal is dismissed as ill-founded for the same reasons given in the contested decision.

The Federal Administrative court has the further possibility of refraining entirely from setting out grounds for its decision where it regards complaints about procedural defects as being devoid of any success. This possibility, however, is one of which it has up to now availed itself but extremely rarely.

2.5. Dealing with proceedings occurring en masse

For proceedings of this kind, the Administrative Court Code allows the possibility of amalgamating them so as to have a common hearing and decision. At the moment, there are no provisions over and above this. Whilst rationalisation using technical aids might be

contemplated for general business operations, this is only a limited possibility as regards the actual process of judicial decision-making. In each specific case, the first requirement is for a judge to look again at whether the relevant administrative directive was a lawful one; this he must do by considering the special circumstances as outlined by the parties. Only when this review indicates that the position in the case is identical or similar to that obtaining in others, a speeding-up effect can be achieved in setting out the grounds for the decision by using standardized texts with identical wording.

What might be contemplated - and at the Federal Administrative Court it is in fact quite usual - is processing a "model case" separately and then taking this as the point of reference for decisions in identical or similar cases. This approach can create problems where the leading judgment in the pilot case has been influenced by the special features of that case, or the plaintiff in a later case maintains that the issues of fundamental importance failed to receive an appropriate examination in the pilot case. Reservations of this kind can be countered by observing that whilst not all the identical or similar cases are examined at the same time, a number of them are, so that the court is given an overall picture of the legal problems involved. All the same, if we bear in mind the principle that any evidence taken should have a direct bearing on the case in question, it may be doubtful if the evidentiary findings in the model case are allowed to find facilitated application in subsequent cases, or if in these cases reference is made to the pilot decision.

3. Quantity/duration of proceedings and the Federal Administrative Court

Where an appeal is lodged on points of law in administrative litigation from a lower instance to the Federal Administrative Court, the latter will also have an influence on the quantity and duration of proceedings when exercising its power of review and decision.

3.1. Appeals on points of law

Within the three instances in German administrative jurisdiction an appeal on points of law has the function of monitoring the correct application of the law in force on the basis of the facts as established by the lower courts. In a federally structured state like the Federal Republic of Germany such legal control is limited to ensuring the right and uniform application of the law in force throughout the Federal Republic of Germany, i.e. mainly federal law including administrative procedural law.

3.1.1. Exclusion of appeals on points of law

There are some cases where an appeal on points of law cannot be lodged at all. Appeals on points of law are inadmissible against judgments of the Higher Administrative Courts handed down in cases involving judicial norm review in respect of provisions of Land law that rank below statutory provisions or in respect of building statutes. So far as federal law has

to be brought in such cases, the required uniformity of its application and interpretation is ensured in another way. If there is a fundamental question of law to be resolved or if the court reviewing the validity of norms wishes to deviate from a decision of the Federal Administrative Court or of another Higher Administrative Court it will have to submit the matter to the Federal Administrative Court for an answer to the legal question concerned.

An appeal on points of law is also inadmissible in certain administrative court cases concerning the grant of political asylum, as it was already mentioned.

3.1.2. Leave granted by the Higher Administrative Court for an appeal on points of law

In principle an appeal on points of law may only be lodged if special leave has been granted. Leave to appeal on points of law may be granted either by the lower court or by the Federal Administrative Court. The grounds on which leave will be granted for an appeal on points of law are as follows:

1. the fundamental importance of the legal matter;
2. deviation from a decision of the Federal Administrative Court;
3. a procedural irregularity, on which the decision of the lower court may be based.

Essentially, a legal matter is only of fundamental importance if an answer is needed - in the interests of consistent court decisions or further development of the law - to a question of interpretation on a point of law where the implications go beyond the individual case. If a question of this kind has once been resolved, a subsequent case will not be of fundamental importance even when the decision to be given in the case concerned is going to have far-reaching consequences.

Deviation occurs when a (Higher) Administrative Court applying the same legal provision has deviated from an abstract legal rule stated in a previous case decided by the Federal Administrative Court, such deviation consisting in the formulation of an abstract legal rule on which the decision in the case concerned is founded.

Only when one of the grounds mentioned is applicable the lower court admits to appeal on points of law. As a result, the lower courts have a considerable influence on the number of appeals on points of law pending with the Federal Administrative Court. If a lower court has doubts as to whether a matter is of fundamental importance, it should rather leave it to the Federal Administrative Court to decide whether leave should be granted for an appeal on points of law. This is also the mode of proceeding the courts generally follow in practice.

The Federal Administrative Court is basically bound by a decision of the lower court granting leave to appeal on points of law. Nevertheless, the Federal Administrative Court can withdraw leave to appeal on points of law on the ground of inadmissibility where such leave has plainly been granted without any statutory basis. In practice this very seldom happens.

3.1.3. Leave granted by the Federal Administrative Court for an appeal on points of law

If the lower court has refused leave to appeal on points of law, the person aggrieved by the decision can then lodge a special remedy with the objective of having leave to appeal. Within one month of service of the decision he will have to give detailed reasons which grounds he considers to have been fulfilled. If the lower court then does not allow the appeal itself, the Federal Administrative Court will give a ruling on the admission of the appeal. The appeal admitted, the appellant will have to file it within one month. Thereafter he will have a further month within which to state his reasons for the appeal.

To a certain extent the Federal Administrative Court itself can control the number of appeals on points of law by taking the view that particular legal questions are not in need of resolution because of general principles stated in previous cases or of unambiguous position. Obviously, there may be important reasons for seeing problems again in a legal question which has already been cleared up. This happens in the way described above when there are deviations from past decisions of the Federal Administrative Court.

Where leave is granted for an appeal on points of law because of an error in the proceedings before the lower court, the Federal Administrative Court will have the task of ensuring in the case concerned that procedural provisions are complied with and that the lower court's decision is rendered in properly conducted proceedings. Leave may also be granted for an appeal on points of law even when there have repeatedly been decisions on the same kind of procedural error.

At present, leave to appeal on point of law and the decision on the appeal itself are dealt with in two separate proceedings. This is to be simplified in future, also for the sake of accelerating matters. Where there is a justified complaint of procedural irregularity, it is intended that the Federal Administrative Court will set aside the contested judgment as soon as it gives its ruling on the complaint and it will remit the case to the lower court. In the other cases where leave is given for an appeal on points of law following a complaint, it will be possible for the complaint proceedings on points of law.

3.1.4. Appeal on points of law without leave

Under present law an appeal on points of law can be lodged without a prior grant of special leave where the appellant complains of such grave defects in the proceedings as are

conclusively enumerated by statute. In future, there are to be no more appeals on points of law without leave being granted - in practice this kind of appeal is only very seldom successful.

3.1.5. Appeal on points of law avoiding a prior appeal on questions of fact and law (direct appeal on points of law)

On special application a direct appeal on points of law can be lodged against the first-instance judgment of an administrative court with waiver of an initial appeal on questions of fact and law. For this kind of direct appeal on points of law, there is a requirement that the respondent has to agree and that the administrative court has to give its approval, this is only possible, when the legal matter is of fundamental importance or when the administrative court has deviated from a decision of the Federal Administrative Court; it is not possible on a procedural error. Where a dispute solely concerns fundamental legal questions a direct appeal on points of law constitutes a means of bringing the dispute to a quicker conclusion than if the usual path was taken.

3.2. Extent of examination by the Federal Administrative Court

The Federal Administrative Court only examines whether the law has been applied correctly. It is itself required to make full examination even going beyond the parties' submissions. On the other hand it is bound by the findings of fact in the judgment given at the lower instance. This rule does not apply only in those cases where the appellant submits admissible and well-founded grounds for an appeal on points of law in respect of the findings of fact, i.e. procedural errors; if assertions of fact deviating from the findings of fact are important for a decision in the case, the Federal Administrative Court is required to remit the case to the court with responsibility for establishing the facts.

The Federal Administrative Court tries to bring appeals to a final and binding conclusion. If it considers an appeal on points of law to be inadmissible, it will dismiss the appeal in a ruling given without an oral hearing. If a judgment is based on a violation of law but is nonetheless correct for other reasons as far as the outcome is concerned without any need for further findings of fact an appeal on points of law will also be dismissed as unfounded and the proceedings will be terminated conclusively.

Hence a case will only be remitted, when it is not possible to give a decision on the correct application of the law in the specific case concerned without further findings of fact being made.

Where a lower court has to give a new decision following remission, it is bound by the Federal Administrative Court's assessment of the law when making its evaluation of the legal issues that are important for the appellate decision on points of law. Going beyond this statutory obligation, the Federal Administrative Court will try - through statements and obiter dicta - to direct the decision in the case along the right lines and to influence the decision in comparable or similar cases so as to reduce the number of new cases. As a rule, the courts and the parties to the proceedings - particularly the authorities follow without the legal principles put forward by the Federal Administrative Court in order to avoid new litigation that offers no prospect of success.

III. Use of information technology at the administrative courts

1. Fields of application for information technology

1.1. The justice system as a late developer

As against the service sector and trade and industry information technology enters very late in the field of public administration - especially as far as justice administration is concerned. The use of electronic data processing in the domain of state jurisdiction is still, with some exceptions, very much at the primary stage. By the mid-seventies a start had already been made, under the guidance of the Federal Ministry of Justice, on the development of a major central on-line data bank for legal information called JURIS, so that for many years now it has been possible to have access to comprehensive documentation consisting of court decisions, legal literature and also legislation. At present JURIS embraces 308.463 documents covering court decisions and 276.831 documents covering legal literature. Furthermore, another 30.988 documents have been stored relating to administrative directions, including 4.500 statutes and items of delegated legislation and thus covering about 95% of federal law currently in force; then there are also statutory materials and, finally, the CELEX case law of the European Court of Justice with 5.403 documents. Today, however, this possibility of transmitting and processing information has hardly been used by staff at the courts - including the courts of administrative jurisdiction - and this is particularly due to the fact that there are only a few courts with their own on-line link. Only very recently have the courts increased their endeavours to link up with modern information technologies.

1.2. Court access as a core area

At the centre of all considerations and planning we find the traditional question of whether it is possible for office work

and other ancillary activities performed in justice administration to be improved by applying measures taken from information technology and, particularly, whether these operations can be rationalized and speeded up. By comparison, the major area of responsibility - i.e. judicial adjudication of disputes - has usually receded into the background when attention has been given to these matters. This raises questions because there is a danger that the development of an electronically based system of information and office communication will not be guided by the needs of persons at the centre of court activity, but rather by the desires and (actual or supposed) needs of those performing activities that are merely intended to support the judge in the performance of his duties.

As regards the central field of responsibility borne by the courts, the questions arises as to how far adjudication of disputes by independent judges can be assisted by means of information technology, so that, for example, by speeding up routine work and also by improving collection and processing of the information needed for adjudication, and perhaps by changing traditional judicial operating methods, there might be a positive influence on the number and duration of cases. In other words it is a matter of finding out how the establishment of internal data banks might be encouraged, the linking up with external information systems rendered possible or also the processing of texts improved through the judge's place of work being computer-based.

1.3. Ancillary tasks

From the angle of rationalization and expedition there is a wide field here for the usage of electronic data processing. Of special importance for the administrative courts are the following areas:

- secretarial services
- registries
- library
- legal documentation (internal as well as external to the court)

- court administration
- planning in the justice system, legislation in this field.

2. Present position and planning

2.1. Land administrative courts

So far automation has basically only been introduced in the secretarial service (word processing) and in respect of registry activities - and this is only the case at some administrative and higher administrative courts. The necessity of coping with a whole mass of cases of a certain type provided the impetus for this, particularly the cases on allocation of university places and those relating to the population census legislation. In both of these spheres there were often several thousand legal actions brought at the same time. Since such cases frequently turn on the same, or at least very similar, questions of law and fact, automation of the word processing relating to court decisions (e.g. text modules) and also EDP support for the registries, (e.g. drawing up of registers and the opening of files) seemed appropriate.

The building up of documentation of court decisions and literature with the aid of an EDP system is still at an even earlier stage. On the Land level there have not yet been any developments relating to judicial work. For all that, there are now a number of judges working at home or at their office with privately-acquired PCs. There is an on-line link with the JURIS data bank at most of the higher administrative courts and occasionally at the administrative courts as well. However, these links have not yet been integrated into a communication system within the court concerned; usually they can only be used with the aid of special personnel from the library.

Plans for the immediate future are primarily geared to the development or initial establishment of automated secretarial services and registry operations. The establishment of EDP-based work stations for judges where resources can be shared will probably take on a more concrete form in the coming years. Just as

with the general development of information technology, this of course presupposes greater appreciation and improvement of budget funds.

2.2. Federal Administrative Court

At the Federal Administrative Court there is currently no information and communication technology in operation covering the registries and the secretarial service. Nonetheless, a substantial part of the central secretarial service is equipped with EDP machinery which - apart from the preparation of texts in collaboration with the documentation department - enables decisions of the Federal Administrative Court to be communicated to the JURIS data bank by means of long-distance data transmission. The Court of course has its own link with this data bank, and everybody has access to this link. At present there is still no firm schedule for the integrated equipping of the registry and typing pool with information and communication technology: within a few years, however, the developments now taking place at

other highest courts of the Federation will be taken over; at the Federal Administrative Court priority is being given to plans for the introduction of EDP-based work stations for judges.

In the context of a resource-sharing system with a central computer (or departmental computer) provision is being made for 8 work stations for judges equipped with PCs in 1990, and for another 8 in 1991. With this pilot project there will be an examination of the demands made on such EDP-based work stations, demands made on a point on which specific details have been completely lacking up till now. On the one hand, there will have to be examined whether there are elements capable of standardisation. On the other hand, account must be taken of the fact that a judge normally deals with specific cases in an individual manner. This means above all that judicial work can be relieved of ancillary and routine activities by applying information technology with the objective of intensifying real work on the case and therefore of improving the results of the work done. A judicial work station should fulfil the following functions:

- a) the judge should have his own (i.e. individual) judicial information system
 - his own (individual) data banks
 - departmental administration (keeping files)
 - tableau of opinions/judgments
 - management of his own appointments, hearings and addresses

b) judicial word processing

- personal word processing combined with text modules
- compatibility with external word processing systems, e.g. with those used by his judicial colleagues
- interface with the central word processor of the secretarial services

- down-loading external information systems

c) link with external information systems

- access to the court's data bank, e.g. panel's internal data file on guiding principles, locating index file on decisions, tables of figures for the values of the matter
- access to internal data bank systems, e.g. the library data bank
- access to external legal information systems, e.g. JURIS, CELEX, electronic mail
- user-friendly menu control with auxiliary menus

d) auxiliary programmes for legal processing

- e.g. standardised calculations - decisions on costs

e) administration of court divisions and panels

- file storage - departmental storage
- dates, hearings
- interface with the registry

In 1991 a start will also be made on the application of information technology in the library of the Federal Administrative Court. There will be a resource-sharing system - initially with four terminals.

To ensure co-ordinated procedure in the library sector the presidents of the highest courts of the Federation have set up a commission to examine the extent to which automated procedures can be applied in respect of the following activities: "acquisition, cataloguing, subject - indexing, documentation and information". Moreover, judges are to be put in the position of being able to make their own inquiries at work regarding the literature available in the library without loss of time. In the course of further development, other services could be offered through transmission of electronically available specialist information in the form of off-line data banks on diskettes or CD-ROM.

3. General framework provided by the law

The work of persons employed at the courts, and particularly the work done by judges, takes place within a narrow legal plexus.

3.1 Constitutional framework

Special attention must be paid to the following principles of constitutional law in this connection:

- Art. 92 (judicial power is preserved to judges)
- Art. 97 GG (independence of judges)
- Art. 101 GG (lawful judge)
- Art. 103 para. 1 GG (hearing in accordance with the law)
- Art. 19 para. 4 GG (comprehensive guarantee of recourse to the court).

As a general requirement it follows from these principles that not only for the sake of the work that judges perform but also for the sake of ancillary activities connected with the actual judicial decision that has to be rendered in litigation, it must be ensured that the tasks to be performed are always and essentially carried out independently and individually. This precludes too much automation and formalisation with information technology measures. In terms of procedural law this means that court proceedings must ultimately remain as a process

of human, and not automated, communication. In substantive terms it must always be remembered that the application of the law is not a mental operation of formal logic, and that a judge can therefore never be a "decision-making slot-machine". Information technology can only be an aid to the judge - it must not try to replace him. This sets constitutional limits to every kind of computer-based expert system and procedure for solving problems (artificial intelligence).

3.2. Procedural framework

Besides affecting the constitutionally anchored injunction to grant a hearing in accordance with the law, excessive and uncontrolled application of possible information technology measures might also have a negative effect, particularly on the procedural maxims of oral and public proceedings. As for these questions we do not have any practical experience, nor are there even any scientific analyses.

3.3. Other statutory provisions

Here mention should be made of provisions in the fields of civilservice law, the law relating to personnel representation labour protection law and of the law of data protection. It must be pointed out that in the light of their personal and material independence in the core area of their adjudicative activity judges can only to a limited extent be forced by civil service law to make use of particular technical aids for performing their tasks.

4. Chances and risks in the application of information technology

4.1. Effects on the duration of proceedings

4.1.1. Ancillary tasks

The expansion of automated office communication and the application of information technology methods will undoubtedly lead to greater effectiveness and acceleration of the various stages of proceedings, and in this way it will help to shorten the duration of proceedings before the administrative courts. It is hard to say how strong the accelerative effect already is and how strong it will become in future. There should not be exaggerated expectations. Much depends on how far rationalization is employed to save labour. Too many staff reductions might ruin the positive effects of automation.

Facilitation and expedition probably have less impact at the Federal Administrative Court as a purely appellate instance on points of law only (and as a court that is also well-staffed); an impact will be found more at the administrative courts of first and second instance. The number of actions pending at these courts is considerably larger. As a rule, the magnitude of correspondence conducted and of files in circulation is also distinctly greater in an individual case being heard before these courts because - as instances dealing with the facts and by virtue of the principle of official investigation - they are required to establish the facts first, and this often calls for large-scale activity on their part. A particular accelerative effect can be

expected, in respect of proceedings occurring en masse, e.g. in the area covering the allocation of university places or in cases concerning major projects relevant to environmental matters, where it is not unusual for there to be hundreds or even thousands of plaintiffs. As regards establishment and maintenance of files by the registries and as far as production of texts by the secretarial service is concerned, there are numerous uniform operations that can be performed by methods employed in electronic data processing (text modules, masks etc.) a great deal faster than by traditional means.

Risks that modern information technology may pose for proper fulfilment of tasks incumbent on the administrative courts are probably not all that high. In the first place there are definitely problems relating to data protection and security (manipulation, spying and sabotage). Then there are also aspects of labour ergonomics to be considered, e.g. health issues associated with work stations solely involving work with a computer. Generally, however, in these areas of court activity there are no problems and risks which are different from, or greater than, those otherwise encountered on the introduction of electronic data processing in commercial and industrial enterprises or in the departments and offices of public administration.

4.1.2. Judicial work station

As already stated, developments are still very much at the beginning stage so it is difficult to say how the introduction of information technology will affect the

duration of proceedings before the administrative courts. However, the Federal Administrative Court expects there to be a distinct speeding-up and facilitation of some operations from the system of resource-sharing. The system will enable the judge to have direct access from his own desk to on-line data banks - particularly JURIS. Every judge will be able to compile his own data collections, which are superior to the usual card-index boxes, etc. With the help of the library, specific data files that the judge frequently uses can be put together in individual collections and kept up to date: this not only saves work but opens quicker access and a better overview. Certain advantages may also be expected in respect of the production of texts.

Modern word processors greatly facilitate the revision of type-written texts in particular: corrections can easily be made on the display screen, and they remain identifiable as the recommendation of a particular judge, when a decision has been circulated to other members of the court.

Ultimately, only further practical developments will show the extent to which the anticipated faster and easier transmission and processing of information will actually enable a judge to deal with his cases much more quickly but without any loss of quality. There will be a realistic chance of this happening particularly if access to the new technology is made as comfortable as possible for judges by user-friendly software and clear and rational working operations. Hitherto many judges have certainly experienced mixed feelings at the sight of a PC and are not yet prepared to get to grips with this new medium.

It is even more difficult to predict whether it will in future be possible and expedient to have electronic communication between the various parties to the proceedings and the court and whether this will lead to a facilitation and acceleration of matters.

The dangers conceivably facing judicial work lie in the possibility - considerably enhanced by modern information technology - of having access to a plethora of information and therefore of being flooded with material which makes no decisive contribution to the judge's work on the case and which may even keep him from getting to the bottom of the case in legal and factual terms through his own mental efforts. The better private and generally accessible information collection systems are organised (data banks et al) and the more access is accordingly geared to acquiring the information actually needed in the case concerned, the less this fear will be justified and there will also be less danger of court decisions being inflated with superfluous and pseudo-scientific matter.

4.2. Impact on the number of cases

The application of information technology will hardly have any direct effect on the number of actions and appeals. However, there will be an indirect effect if a marked reduction in the length of administrative court proceedings can be achieved with the aid of electronic data processing. This particularly applies to the duration of proceedings before the higher courts, especially the Federal Administrative Court. The quicker one can obtain a decision which is of general importance for other cases or given in a model case in a whole mass of actions, the greater the likelihood of being able to avoid additional court proceedings.

Appendix

Incidence of business at the administrative courts

Court actions

	Incomings	Disposals	Pending proceedings
1975	55.938	58.475	52.412 ¹⁾
1980	131.441	97.752	106.673 ¹⁾
1981	132.530	123.423	151.221
1982	129.107	136.482	145.994
1983	119.513	126.541	138.903
1984	103.523	119.944	127.903
1985	113.448	116.497	124.854
1986	111.705	114.255	122.304
1987	119.674	115.773	127.976

1) not including Bavaria (division into actions and applications is not possible)

Arithmetical discrepancies because of correction of totals and introduction of special forms for statistics from 1983 onwards

Court protection in temporary injunctions

(excluding numerus clausus proceedings since 1983)

	Incomings	Disposals	Pending proceedings	Incomings for all other proceedings
1975				23.972
1980				79.937
1981				32.900
1982				31.477
1983 ¹⁾	31.370	30.775	6.247	
1984 ²⁾	33.568	34.136	6.658	
1985 ²⁾	32.545	32.623	6.580	
1986 ²⁾	37.223	35.980	7.324	
1987	91.369	81.014	19.746	

1) not including Hesse-and Lower Saxony

2) not including Hesse

Arithmetical discrepancies because of correction of totals

Incidence of business at the higher administrative courts

Appeals on questions of fact and law¹⁾

	Incomings	Disposals	Pending proceedings
1975	9.019	7.263	11.545
1980	14.032	14.514	17.935
1981	18.421	17.230	19.076
1982	17.896	13.075	18.912
1983 ²⁾	14.156	14.740	12.424
1984 ³⁾	14.947	15.031	15.941
1985 ³⁾	15.915	13.916	13.193
1986 ⁵⁾	16.337	15.330	19.255
1937	17.362	16.857	22.754

1) including, since 1983, appeals against a refusal of leave to appeal on points of law

2) not including Hesse, Lower Saxony and Schleswig-Holstein

3) not including Hesse

Arithmetic discrepancies because of correction of totals

Complaints (Beschwerden)¹⁾

(excluding numerus clausus proceedings since 1983)

	Incomings	Disposals	Pending proceedings
1975	5.031	5.593	2.104
1980	2.863	27.513	10.247
1981	32.499	31.339	11.357
1982	36.375	35.930	12.296
1983 ²⁾	3.169	7.422	1.347
1984 ³⁾	13.125	10.464	2.147
1985 ³⁾	9.372	9.817	2.214
1986 ³⁾	11.303	10.951	2.537
1987	21.462	19.729	5.024

1) up to 1982 all complaints including appeals against a refusal of leave to appeal on points or law

2) not including Hesse, Lower Saxony and Schleswig-Holstein

3) not including Hesse

Arithmetic discrepancies because of correction of totals

Incidence of business at the Federal Administrative Court ¹⁾

Appeals on points of law only

	Incomings	Disposals	Pending proceedings
1975	557	751	366
1980	1.793	1.284	1.623
1981	2.149	1.938	1.339
1982	1.868	2.224	1.483
1983	936	1.378	1.041
1984	817	855	1.003
1985	955	868	1.090
1986	957	942	1.105
1987	693	743	1.055

Complaints (Beschwerden)

	Incomings	Disposals	Pending proceedings
1.975	1.005	399	483
1980	6.546	4.736	3.061
1981	10.751	8.921	4.901
1982	11.533	13.410	3.024
1983	2.937	4.554	1.307
1984	2.116	2.539	834
1985	1.920	2.115	639
1986	1.773	1.930	482
1987	1.900	1.974	

1) not including panels dealing with disciplinary and military service matters