

13. Termination of the proceedings

Shortly after the trial began, judges and prosecuting attorneys discussed the possibility of dismissing the case in 1968, as the court was tasked with determining whether the corresponding prerequisites had been met. The legal basis for such a decision was set forth in § 153 StPO, which provided for the option to dismiss if the defendant's guilt (not the consequences of the crime!) was only slight and there was no evident public interest in further criminal prosecution. At the time, there was no other justification for dismissing criminal proceedings once an indictment had been filed. While these initial discussions were conducted for purposes of orientation only, the question of dismissal was first addressed in earnest in the spring of 1969. The matter was discussed at the Ministry of Justice on April 10. On this occasion, Ministry representatives stated that they would issue no instructions. Although opinions regarding a dismissal of the proceedings differed, it became clear after this meeting that everyone involved in the process – the Public Prosecutor's Office, the court, defense attorneys and co-plaintiffs – were aware of the arguments in question. In-depth reports were also published in the press. Of importance in this context is the fact that the Bundestag had passed a bill providing for the introduction of an absolute statute of limitations in mid-1969. That suggested the possibility that most of the crimes could no longer be prosecuted if the trial lasted much longer.

In the fall of 1969, at the latest, confidential negotiations were initiated, at first between defense attorneys and representatives of the joint plaintiffs and later with the Public Prosecutor's Office as well, in which the possibility of dismissal in conjunction with the payment of compensation for damages to the victims was discussed. Reports on these negotiations were published in early 1970. The result was a settlement concluded by Chemie Grünenthal and joint plaintiffs' representative Rupert Schreiber on April 10, 1970. Although no mention of a dismissal of proceedings was made in this agreement, there could be little doubt in the minds of attentive observers that there was a link between the civil settlement and the termination of the criminal proceedings, or at least that the settlement would lead to a dismissal of the proceedings. However, because the

company was only required to pay if the social- and health-insurance providers agreed to waive the transferred claims, the negotiations continued for several months.

Negotiations regarding dismissal of the proceedings were concluded for the most part in November 1970. On November 18, the Ministry of Justice was informed that the Public Prosecutor's Office intended to issue the approval required for dismissal. Justice authorities had been informed in advance that the defense would petition for dismissal of the proceedings. Once the Public Prosecutor's Office had obtained approval for its declaration of agreement to the higher justice authorities and most (but not all!) of the joint plaintiffs agreed to, or at least chose not to protest, the termination of proceedings on December 11, the district attorneys presented their statement and gave the necessary approval. On December 18, 1970, the following and last day of the trial, District Court Counsel Benno Dietz announced the resolution in which the proceedings were irreversibly terminated – exactly 9 years to the day after the Public Prosecutor's Office in Aachen had initiated the preliminary proceedings.