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

COURT (CHAMBER)

CASE OF KARAKAYA v. FRANCE

(Application no. 22800/93)

JUDGMENT

STRASBOURG

26 August 1994

In the case of Karakaya v. France*,

The European Court of Human Rights, sitting, in accordance with Article 43 (art. 43) of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and the relevant provisions of the Rules of Court, as a Chamber composed of the following judges:

Mr R. RYSSDAL, *President*,
Mr L.-E. PETTITI,
Mrs E. PALM,
Mr I. FOIGHEL,
Mr A.N. LOIZOU,
Mr J.M. MORENILLA,
Mr A.B. BAKA,
Mr D. GOTCHEV,
Mr P. JAMBREK,

and also of Mr H. PETZOLD, *Acting Registrar*,

Having deliberated in private on 24 June and 23 August 1994,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case was referred to the Court by the European Commission of Human Rights ("the Commission") on 13 April 1994, within the three-month period laid down by Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention. It originated in an application (no. 22800/93) against the French Republic lodged with the Commission under Article 25 (art. 25) by a Turkish national, Mr Mustafa Karakaya, on 30 September 1993.

The Commission's request referred to Articles 44 and 48 (art. 44, art. 48) and to the declaration whereby France recognised the compulsory jurisdiction of the Court (Article 46) (art. 46). The object of the request was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 6 para. 1 (art. 6-1).

2. In response to the enquiry made in accordance with Rule 33 para. 3(d) of the Rules of Court, the applicant stated that he wished to take part in the proceedings and designated the lawyer who would represent him (Rule 30).

* Note by the Registrar. The case is numbered 12/1994/459/540. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case's position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

3. The Chamber to be constituted included ex officio Mr L.-E. Pettiti, the elected judge of French nationality (Article 43 of the Convention) (art. 43), and Mr R. Ryssdal, the President of the Court (Rule 21 para. 3(b)). On 26 April 1994, in the presence of the Deputy Registrar, the President drew by lot the names of the other seven members, namely Mrs E. Palm, Mr I. Foighel, Mr A.N. Loizou, Mr J.M. Morenilla, Mr A.B. Baka, Mr D. Gotchev and Mr P. Jambrek (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43).

4. As President of the Chamber (Rule 21 para. 5), Mr Ryssdal, acting through the Deputy Registrar, consulted the Agent of the French Government ("the Government"), the applicant's lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 37 para. 1 and 38). Pursuant to the order made in consequence, the Deputy Registrar received the applicant's memorial on 9 May 1994 and the Government's memorial on 9 June. On 13 June the Secretary to the Commission informed the Deputy Registrar that the Delegate did not wish to reply in writing.

5. On 20 May 1994 the Commission produced the file on the proceedings before it, as requested by the Deputy Registrar on the President's instructions.

6. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 21 June 1994. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

- for the Government

Mrs M. MERLIN-DESMARTIS, administrative court judge, on secondment to the Legal Affairs Department, Ministry of Foreign Affairs, *Agent*,

Mrs O. DORION, Ethics and Law Office, Health-Care Professions Section, General Department of Health, Ministry of Social Affairs, Health and Urban Affairs, *Counsel*;

- for the Commission

Mr J.-C. SOYER, *Delegate*;

- for the applicant

Mr J.-A. BLANC, avocat at the Conseil d'Etat and the Court of Cassation, *Counsel*.

The Court heard addresses by Mrs Merlin-Desmartis, Mr Soyer and Mr Blanc.

AS TO THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. Mr Mustafa Karakaya, a Turkish national born in 1956, has lived for many years in France, where he worked as a mechanic until 1990, when he was made redundant.

8. Since then he has been unemployed, and in December 1991 he was registered as 80% disabled owing to the effects of illness on his joints.

Mr Karakaya is a haemophiliac and has had numerous blood transfusions. He was infected with the human immunodeficiency virus (HIV) between 16 August and 29 October 1984, the latter date having been determined only during proceedings in the Paris Administrative Court (see paragraph 17 below). In April 1992 he was classified as having reached stage III of infection - the last but one stage - on the scale of the Atlanta Center for Disease Control.

A. The applications for compensation

1. The application to the administrative authority

9. On 29 December 1989 the applicant submitted a preliminary claim for compensation to the Minister for Solidarity, Health and Social Protection, in accordance with Article R.102 of the Administrative Courts and Administrative Courts of Appeal Code (see paragraph 21 below). He sought 2,500,000 French francs (FRF), maintaining that he had been infected with HIV as a result of the Minister's negligent delay in implementing appropriate rules for the supply of blood products.

Six hundred and forty-nine similar claims were submitted to the Minister; at that time one thousand two hundred and fifty haemophiliacs had been infected.

10. On 30 March 1990, one month before the expiry of the statutory four-month time-limit (see paragraph 21 below), the Director-General for Health rejected the applicant's claim.

2. The application to the administrative courts

11. On 23 May 1990 Mr Karakaya lodged an application with the Versailles Administrative Court, seeking to have the ministerial decision quashed and to be awarded compensation from the State in the amount of FRF 2,500,000 plus statutory interest. On 18 October he filed supplementary pleadings.

The Minister filed his defence pleadings on 22 April 1991. In them he called on the court to dismiss the applicant’s claim but added:

> "However, in the event of the court’s accepting the principle of negligence on the part of the State, I would ask you to appoint an expert with a view to establishing whether the damage for which the applicant seeks compensation is genuinely attributable to such negligence."

12. By an order of 1 July 1991 made under Article R.82 of the Administrative Courts and Administrative Courts of Appeal Code, the case was referred to the Conseil d’Etat, which assigned it to the Paris Administrative Court, the court designated to deal with all the applications lodged against the State by infected haemophiliacs.

(a) Preparation of the case for trial

(i) In the Paris Administrative Court

13. The case was set down for hearing on 8 April 1992. On 22 April the court delivered an interlocutory judgment, worded as follows:

> "... the State is liable in respect of haemophiliacs who were infected with HIV in the course of transfusion of non-heat-treated blood products during the period of liability defined above, that is between 12 March and 1 October 1985."

It also ordered the applicant to produce a statement of any indemnities he might have received in compensation for the damage set out in the application.

The judgment was served on Mr Karakaya on 25 August 1992. On 27 August he sent the court a copy of the offers made by the Compensation Fund (see paragraph 18 below).

14. A hearing took place on 3 February 1993. On 14 April the court delivered a second interlocutory judgment, in which it appointed an expert to determine as far as possible, inter alia, whether the applicant had received any blood derivatives during the period of the State’s liability determined earlier and to give an opinion on the likelihood of there being a causal link between the administration of blood derivatives during that period and infection by HIV.

The judgment was served on Mr Karakaya on 13 September 1993.

(ii) In the Paris Administrative Court of Appeal

15. On 24 September 1993 Mr Karakaya appealed to the Paris Administrative Court of Appeal against the two interlocutory judgments of 22 April 1992 and 14 April 1993 in order to have them set aside and to have the case decided at once by the appellate court without any expert being appointed to give an opinion.

16. In a judgment of 31 March 1994 the Court of Appeal dismissed the appeal, holding that the submissions challenging the first judgment of the

court below were inadmissible and that the expert opinion called for in the lower court's second judgment was useful.

(b) The trial

17. On 10 December 1993 the expert filed his report at the Paris Administrative Court. It included the following passage:

> "... I am convinced that in all probability Mr Karakaya was originally infected by HIV as a result of injections of antihaemophilic blood derivatives that were administered between 16 August 1984 and 29 October 1984."

The case was set down for hearing on 16 February 1994. On 2 March the Administrative Court delivered the following judgment:

> "The expert's report has shown that a causal link between the applicant's infection with the human immunodeficiency virus and the administration of blood derivatives during the period of the State's liability - as determined in a judgment of 22 April 1992 - between 12 March and 1 October 1985 cannot be regarded as having been established. The expert indicates that Mr Karakaya was shown to be HIV positive on a sample taken on 13 November 1984. It follows that Mr Karakaya's application for an order that the State should compensate for the damage sustained as a result of this infection must be refused;
>
> ..."

The judgment was served on Mr Karakaya on 5 April 1994; he did not appeal within the two-month period allowed.

B. The claim submitted to the Compensation Fund

18. On 17 April 1992 Mr Karakaya submitted a claim to the Compensation Fund set up by the Act of 31 December 1991 (see paragraph 19 below).

On 13 May 1992 the Fund offered him as "HIV-infection compensation" a sum of FRF 1,234,500 payable in three instalments over a period of two years, from which FRF 100,000 paid out by the private haemophiliacs' solidarity fund was to be deducted. In addition, the applicant was to receive a sum of FRF 411,500 as soon he developed AIDS (acquired immunodeficiency syndrome).

Following acceptance of the offer by the applicant, the Fund sent him an initial instalment of FRF 378,170 on 1 June 1992.

On 9 December 1992 the applicant requested the Fund to pay him the remainder of the HIV-infection compensation immediately; he referred it to the Paris Court of Appeal's judgments of 27 November 1992, in which the court had held that such compensation could not be paid in instalments unless the persons receiving it agreed.

On 18 February 1993 the Fund sent him the requested sum of FRF 756,330.

II. THE COMPENSATION MACHINERY

A. Legislation

19. The Act of 31 December 1991 making miscellaneous social-welfare provisions set up special machinery for the compensation of haemophiliacs and transfusion patients who had been infected following injections of blood products. Section 47 provides:

> "I. Victims of damage resulting from infection with the human immunodeficiency virus caused by transfusion of blood products or injection of blood derivatives carried out within the territory of the French Republic shall be compensated in the manner set out below.
>
> II. ...
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> III. Full compensation for the damage defined in subsection I shall be provided by a Compensation Fund, having legal personality, presided over by a serving or retired divisional president or judge of the Court of Cassation and administered by a compensation board.
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> ...
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> IV. In their claims for compensation, victims or their heirs shall provide proof of their infection with the human immunodeficiency virus and of the transfusion of blood products or injections of blood derivatives.
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> ...
>
> Victims or their heirs shall communicate to the Fund all the information in their possession.
>
> Within three months of the receipt of a claim, a period which may be extended at the request of the victim or his heirs, the Fund shall consider whether the conditions for payment of compensation have been fulfilled. It shall investigate the circumstances under which the victim was infected and make any necessary inquiries, which may not be resisted on grounds of professional secrecy.
>
> ...
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> V. The Fund shall be required to make an offer of compensation to any victim referred to in subsection I within a time-limit laid down by decree, which may not exceed six months from the day on which the Fund receives full proof of the damage ...
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> ...
>
> VI. The victim shall inform the Fund of any judicial proceedings pending. If legal proceedings are brought, the victim shall inform the court of his application to the Fund.

VII. ...

VIII. The victim shall not be entitled to take legal action against the Compensation Fund unless his claim for compensation has been dismissed, no offer has been made to him within the time-limit referred to in the first paragraph of subsection V, or he has not accepted an offer made to him. Proceedings shall be brought in the Paris Court of Appeal.

IX. The Fund shall be subrogated, for an amount no higher than the sums paid out, to the victim’s rights against the person liable for the damage and against persons required, for whatever reason, to make full or partial reparation for that damage, within the limits of those persons’ liabilities. However, the Fund may institute proceedings on the basis of that subrogation only where the damage is attributable to negligence.

The Fund may intervene in proceedings in the criminal courts, even if it does not do so until the appeal stage, where the victim or his heirs have claimed compensation as a civil party in proceedings pending against the person or persons responsible for the damage defined in subsection I. In such cases it shall be considered a full party to the proceedings and may have recourse to all the remedies available in law.

If the acts which caused the damage have given rise to criminal proceedings, the civil court shall not be required to defer its decision until there has been a final decision by the criminal court.

X. Unless otherwise provided, the provisions governing the implementation of this section shall be laid down in a decree issued after consultation of the Conseil d’Etat.

XI. ...

XII. The Compensation Fund’s sources of revenue shall be specified in a subsequent Act.

XIII. ...

XIV. ..."

B. Case-law

20. In three judgments of 9 April 1993 the Judicial Assembly of the Conseil d’Etat decided that the State was wholly liable in respect of persons who were infected with the human immunodeficiency virus following transfusion of non-heat-treated blood products between 22 November 1984 and 20 October 1985.

III. THE RELEVANT PROCEDURAL LAW

A. The rules applicable at the material time

21. At the material time the Administrative Courts and Administrative Courts of Appeal Code contained, inter alia, the following provisions:

Article R.102

"Except in cases concerning public works, proceedings may not be instituted in the Administrative Court otherwise than in the form of an appeal against a decision; such an appeal shall be lodged within two months of the notification or the publication of the contested decision.

Where no reply is forthcoming from the relevant authority for more than four months, that silence is to be construed as a decision rejecting the complaint.

..."

Article R.129

"The President of the Administrative Court or of the Administrative Court of Appeal, or a judge delegated by one of them, may, where the existence of an obligation cannot seriously be contested, award an advance to a creditor who has filed an application on the merits in the court in question. He may, even of his own motion, make the payment of the advance subject to the lodging of a security."

Article R.142

"Immediately after the application instituting the proceedings has been registered by the registry, the president of the court or, in Paris, the president of the division to which the application has been transmitted, shall appoint a rapporteur.

Under the authority of the president of the court or division to which he belongs, the rapporteur shall, regard being had to the circumstances of the case, fix the time-limit to be given, if necessary, to the parties for the production of supplementary pleadings, observations, statements of defence or replies. He may request the parties to supply any evidence or documents relevant to the resolution of the dispute, which shall be added to the file so as to be accessible to all the parties."

Article R.150

"Where one of the parties or the administrative department has been asked to submit observations and has not complied with the time-limit laid down pursuant to Articles R.142 and R.147 of this code, the president of the court or division shall issue a formal notice to comply.

In the event of force majeure, a final extension of time may be granted.

If the formal notice to comply has no effect or if the final time-limit given is not complied with, the court shall give judgment."

Article R.151

"Where a final notice to comply relates to an administrative department of the State, it shall be sent to the authority with competence to represent the State; in other cases it shall be sent to the party or his representative if he has appointed one."

Article R.182

"A member of the Administrative Court or the Administrative Court of Appeal may be assigned by the competent court or by the latter's president to carry out any investigative measures other than those provided for in sections 1 to 4 of this chapter."

B. The current rules

22. Decree no. 93-906 of 12 July 1993 applies to all proceedings pending at the date of its publication. It lays down provisions for the implementation of section 47 of the Act of 31 December 1991 (see paragraph 19 above):

"Part II

Provisions relating to actions seeking to establish liability brought against those responsible for the damage defined in subsection I of section 47 of the aforementioned Act of 31 December 1991

Article 15

In order to bring the action by subrogation provided for in subsection IX of section 47 of the aforementioned Act of 31 December 1991, the Fund may intervene in proceedings in any of the administrative or ordinary courts, even if it does not do so until the appeal stage. In such cases it shall be considered a full party to the proceedings and may have recourse to all the remedies available in law.

Article 16

The registries of the administrative and ordinary courts shall send the Fund by registered post with recorded delivery a copy of the procedural documents submitting to those courts any initial or additional claim for compensation of the damage defined in subsection I of section 47 of the aforementioned Act of 31 December 1991.

Article 17

Within one month of receipt of the letter referred to in Article 16, the Fund shall inform the president of the relevant court by ordinary mail whether or not it has received a claim for compensation with the same purpose and, if so, what stage the procedure has reached. It shall also state whether or not it intends to intervene in the proceedings.

Where the victim has accepted an offer made by the Fund, the latter shall send the president of the court a copy of the documents in which the offer was made and by which it was accepted. The Fund shall, where relevant, indicate the stage reached in proceedings instituted in the Paris Court of Appeal under the provisions of Part I of this decree and forward any judgment delivered by that court.

The registry shall notify the parties of the information communicated by the Fund.

Article 18

The registry shall send the Fund copies of the decisions given at first instance and, where relevant, on appeal in proceedings in which the Fund has not intervened.

Article 19

...

Article 20

The provisions of Articles 15 to 19 shall be applicable to cases pending on the date of entry into force of [this] decree ..."

PROCEEDINGS BEFORE THE COMMISSION

23. Mr Karakaya applied to the Commission on 30 September 1993, alleging that his case had not been heard within a reasonable time as required by Article 6 para. 1 (art. 6-1) of the Convention.

24. The Commission declared the application (no. 22800/93) admissible on 19 January 1994. In its report of 9 March 1994 (Article 31) (art. 31), it expressed the unanimous opinion that there had been a violation of Article 6 para. 1 (art. 6-1). The full text of the Commission's opinion is reproduced as an annex to this judgment*.

FINAL SUBMISSIONS TO THE COURT

25. In their memorial the Government

"leave it to the Court's discretion to assess whether there has been a breach of Article 6 (art. 6) of the Convention and request that, if the question arises, the compensation for non-pecuniary damage sustained by Mr Karakaya should be

* Note by the Registrar. For practical reasons this annex will appear only with the printed version of the judgment (volume 289-B of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

awarded in the amount of FRF 200,000, to which costs and expenses would fall to be added".

26. The applicant requested the Court to hold that

"there ha[d] been a breach of Article 6 para. 1 (art. 6-1) of the Convention and order the respondent State to pay the applicant FRF 350,000 for damage and FRF 58,114 for costs and expenses".

AS TO THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 PARA. 1 (art. 6-1)

27. Mr Karakaya complained of the time taken to deal with the claim for compensation which he had lodged against the State. He alleged a violation of Article 6 para. 1 (art. 6-1) of the Convention, which provides:

"In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

A. Applicability of Article 6 para. 1 (art. 6-1)

28. It was common ground between the applicant and the Commission that Article 6 para. 1 (art. 6-1) was applicable in the instant case, and the Government did not dispute this.

B. Compliance with Article 6 para. 1 (art. 6-1)

1. Period to be taken into consideration

29. The period to be taken into consideration began on 29 December 1989, when the applicant lodged his preliminary claim for compensation with the Minister for Solidarity, Health and Social Protection (see paragraph 9 above). It ended on 5 April 1994, when the Paris Administrative Court's judgment of 2 March 1994 was served (see paragraph 17 above). It therefore amounted to four years and three months.

2. Reasonableness of the length of the proceedings

30. The reasonableness of the length of proceedings is to be assessed in the light of the circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities. On the latter

point, what is at stake for the applicant in the litigation has to be taken into account (see the X v. France judgment of 31 March 1992, Series A no. 234-C, p. 90, para. 32, and the Vallée v. France judgment of 26 April 1994, Series A no. 289-A, p. 17, para. 34).

(a) Complexity of the case

31. According to Mr Karakaya, the case was not at all complex, because the principles governing the State's liability for the infection of haemophiliacs had been clear since the judgment given on 20 December 1991 by a full court of the Paris Administrative Court. In its X v. France and Vallée v. France judgments the Court had already held that periods of two years and, a fortiori, four years and three months exceeded a reasonable time.

32. The Government pointed out the difficulties and uncertainties that faced the courts before which the first compensation proceedings were brought, until the Assembly of the Conseil d'Etat adopted its judgment of 9 April 1993 establishing the basis of the State's liability. Furthermore, it had been necessary to await the Health and Social Affairs Inspectorate's report of September 1991 in order to determine the date on which the authorities had been clearly alerted to the role of blood transfusion in the transmission of AIDS.

33. The Commission accepted the applicant's submission in substance.

34. In the Court's opinion, even if the case was of some complexity, the information needed to determine the State's liability had been available for a long time (see the X v. France and Vallée judgments previously cited, p. 91, para. 36, and p. 18, para. 38, respectively).

(b) The applicant's conduct

35. The Government emphasised that Mr Karakaya had produced his supplementary pleadings five months after making his application to the Administrative Court.

36. The applicant argued that this fact was wholly irrelevant; under the provisions of the Administrative Courts Code, the court could have communicated the application to the Minister of Health and given him a time-limit for replying. Besides, the supplementary pleadings were identical in every respect with those filed by the other four hundred haemophiles in support of their applications.

37. Like the Commission, the Court notes that in any case more than three years and five months elapsed between the filing of those pleadings (18 October 1990) and the end of the proceedings (5 April 1994).

(c) The conduct of the national authorities

(i) The administrative authorities

38. Mr Karakaya criticised the relevant minister for his slowness in submitting his reply and his defence; he had taken three months to respond to the preliminary claim and eleven months to file pleadings in the court proceedings (see paragraphs 10 and 11 above). In addition, Mr Karakaya was of the view that the Government had delayed in setting up a compensation fund and he considered that the one-and-a-half-year period between the publication of the Act of 31 December 1991 and that of the implementing decree of 12 July 1993 was unacceptable (see paragraphs 19 and 22 above).

39. The Government, on the other hand, maintained that the authorities had been prompt to afford compensation to the persons infected by blood transfusions, in particular through the Fund set up by the Act of 31 December 1991.

40. Like the Commission, the Court points out that the establishment of a special fund, however laudable, did not have the effect of speeding up either main or supplementary proceedings in the courts dealing with applications from infected persons. It also notes that the Minister of Health filed his defence nearly eleven months (22 April 1991) after the application had been made (23 May 1990) and six months after the supplementary pleadings had been filed (18 October 1990).

(ii) The administrative courts

41. In Mr Karakaya's submission, seeing that the average expectation of life for a person infected with the AIDS virus was twelve years, the Administrative Court should have used its power to give directions in order to shorten the abnormally long periods of time taken for procedural steps to be carried out and judgments to be served. Moreover, the second interlocutory judgment (14 April 1993), in which the court called for an expert medical opinion, was an absurdity as it was given a year after the first one (22 April 1992), which had already determined the period of the State's liability.

Despite the Fund's award of FRF 378,170 on 1 June 1992 and FRF 756,330 on 18 February 1993, when a reasonable time had already been exceeded, what was at stake in the proceedings in the administrative courts remained of great importance both in non-pecuniary terms and in terms of additional compensation.

42. The Government maintained that the first interlocutory judgment, in which the applicant was asked to produce a statement of compensation paid by the Fund, and the second one, in which the court called for an expert medical opinion, had both been necessary.

The compensation paid by the Fund during the proceedings had much reduced the importance of what was at stake financially in the case, and the judgments given against the administrative authorities by the Conseil d'Etat in April 1993 had likewise lessened its significance in non-pecuniary terms.

43. Like the Commission, the Court considers that what was at stake in the proceedings in issue was of crucial importance to the applicant in view of the incurable disease from which he is suffering and his limited life expectancy. He was infected in 1984 and was classified in 1992 as having reached stage III, the last but one stage of infection (see paragraph 8 above). In short, exceptional expedition was called for in this instance, notwithstanding the number of cases which were pending, in particular as the facts of the controversy had been known to the Government for several years and its seriousness must have been obvious to them (see the X v. France and Vallée judgments previously cited, p. 94, para. 47, and p. 19, para. 47, respectively).

Yet the Administrative Court did not use its powers to expedite the proceedings, although it was aware of the X v. France judgment and of Mr Karakaya's state of health.

44. In this connection, several periods appear to have been abnormally long:

(a) the twenty-two months between the application to the Versailles Administrative Court (23 May 1990) and the first hearing (8 April 1992) (see paragraphs 11 and 13 above);

(b) the year between the first (22 April 1992) and second (14 April 1993) interlocutory judgments (see paragraphs 13 and 14 above), even if the second one was necessary, the medical opinion having shown that Mr Karakaya had been infected at a point in time lying outside the period of the State's liability;

(c) the four months taken to serve the judgment of 22 April 1992 (see paragraph 13 above); and

(d) the five months taken to serve the judgment of 14 April 1993 (see paragraph 14 above).

45. Referring to its X v. France and Vallée judgments, the Court reiterates that a period of more than four years to obtain a judgment in first-instance proceedings far exceeds a reasonable time in a case of this nature. Such a reasonable time had been exceeded even before the applicant was paid compensation by the Fund on 1 June 1992 and 18 February 1993 (see paragraph 18 above). After the latter date, what was at stake in the proceedings, in both pecuniary and non-pecuniary terms, continued to be of great importance to Mr Karakaya.

In sum, there has been a violation of Article 6 para. 1 (art. 6-1).

II. APPLICATION OF ARTICLE 50 (art. 50)

46. Under Article 50 (art. 50) of the Convention,

> "If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

47. Mr Karakaya claimed, firstly, FRF 350,000 in respect of non-pecuniary damage, a sum higher than the one awarded by the Court in the Vallée case in respect of proceedings of identical length because the national courts had not awarded any compensation.

48. The Government considered that if the Court were to find a breach of Article 6 (art. 6), it should follow its decision in the Vallée case and limit the compensation awarded under this head to FRF 200,000.

49. The Delegate of the Commission agreed in substance with the Government's opinion.

50. The Court finds that the applicant has undeniably sustained non-pecuniary damage but it cannot link the amount of compensation awarded for damage arising from the length of the proceedings to the outcome of the case in the national courts. Moreover, it notes that during the proceedings (on 1 June 1992 and 18 February 1993) the applicant obtained the sum of FRF 1,134,500 from the Compensation Fund. Taking into account the various relevant factors and making its assessment on an equitable basis in accordance with Article 50 (art. 50), it awards Mr Karakaya FRF 200,000.

B. Costs and expenses

51. The applicant also claimed FRF 58,114 in respect of costs and expenses incurred before the Convention institutions.

52. The Government did not contest this claim and the Delegate of the Commission supported reimbursement.

53. The Court allows the applicant's claim in full.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that there has been a breach of Article 6 para. 1 (art. 6-1);

2. Holds that the respondent State is to pay the applicant, within three months, 200,000 (two hundred thousand) French francs in respect of damage and 58,114 (fifty-eight thousand one hundred and fourteen) francs in respect of costs and expenses;

3. Dismisses the remainder of the applicant's claim.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 26 August 1994.

Rolv RYSSDAL
President

Herbert PETZOLD
Acting Registrar