AS TO THE ADMISSIBILITY OF

Application No. 23272/94
by István FARKAS
against Hungary

The European Commission of Human Rights (First Chamber) sitting in private on 17 May 1994, the following members being present:

MM. A. WEITZEL, President
C.L. ROZAKIS
F. ERMACORA
A.S. GÖZÜBÜYÜK
Mrs. J. LIDDY
MM. M.P. PELLONPÄÄ
B. MARXER
G.B. REFFI
B. CONFORTI
N. BRATZA
E. KONSTANTINOV

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 7 April 1993 by István FARKAS against Austria and registered on 19 January 1994 under file No. 23272/94;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having examined the case file,

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a Hungarian citizen born in 1942. The facts of the case, as submitted by the applicant, may be summarised as follows.

The applicant was serving in the Hungarian Army (Magyar Néphadsereg) as a parachutist training officer. On 14 October 1986 he suffered an accident.

On 3 April 1987 the applicant lodged a petition with the army and claimed full compensation for his loss.

On 12 August 1987 the commander of his troop informed him that the Finance Division`s Compensation Subdivision of the Hungarian Army (Magyar Néphadsereg Pénzügyi Szolgálat Fonökség Kártérítési Alosztály) acting as first instance administrative authority had ordered payment of 30,000 Hungarian Forints and refused the remainder of his claim. However the applicant was ordered to undergo some further medical examinations. He was found to be 100% disabled.

On 1 April 1988 the applicant was pensioned by the army.

On 12 September 1989 the Hungarian Army ordered the applicant to appear before the Military Branch of the Medical Institute of Judicial Experts (Igazságügyi Orvosszakéroi Intézet katonai részleg) for further examinations.

On 22 May 1990 the above first instance administrative authority issued a further decision by which it rejected most of the applicant`s claims as to his full compensation. The applicant lodged an appeal.

On 9 July 1990 the Ministry of Defence (Honvédelmi Minisztérium) refused the hierarchical appeal.

On 21 November 1990 the applicant instituted judicial proceedings before the Pest Central District Court (Pesti Központi Kerületi Bíróság) against the Ministry of Defence (Honvédelmi Minisztérium) and claimed full compensation.

On 29 May 1991 the court ordered the defendant to pay to the applicant 205,553 Hungarian Forints plus interest for non-pecuniary damages. The defendant lodged an appeal.

On 26 November 1992 the Metropolitan Court (Fovárosi Bíróság) as a court of appeal decreased the amount of compensation for non-pecuniary damages to 105,553 Hungarian Forints, quashed the remainder of the first instance judgment and instructed the first instance court to re-try the case in this respect.

The latter proceedings are still pending before the first instance court.

COMPLAINTS

The applicant complains about the length of proceedings. Moreover he claims that he has not been provided with a fair hearing as the courts are biased as they do not appear to provide him with full compensation. He invokes Article 6 para. 1 of the Convention.

THE LAW

1. The applicant complains about the length of the proceedings involved in the case. Article 6 para. 1 (Art. 6-1) of the Convention provides, so far as relevant, as follows.

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

The first step taken in the present case was the applicant's petition to the army in April 1987 in which he claimed compensation. On 12 August 1987 the applicant was informed that the Compensation Subdivision, acting as first instance administrative authority, had ordered payment of 30,000 Forints and rejected the remainder of the claim. Judicial proceedings were begun on 21 November 1990. Those proceedings are still pending.

The relevant period for the Convention organs in the present case runs neither from the applicant's petition of 3 April 1987, when he lodged a petition with the army (cf. Eur. Court H.R., Darnell judgment of 26 October 1993, Series A no. 272, para. 21), nor from the introduction of judicial proceedings on 21 November 1990, but rather from 5 November 1992, that is, the date on which Hungary ratified the Convention and made a declaration under Article 25 (Art. 25) recognising the right of individual petition. However, in assessing the reasonableness of the time that has elapsed after that date, account must be taken of the then state of the proceedings (Eur. Court H.R., Pretto and others judgment of 8 December 1983, Series A no. 71, p. 14, para. 30).

The Commission notes that since 5 November 1992, a little over one and a half years have elapsed. Even when due regard is had to the

fact that, on 5 November 1992, the applicant's petition had been before the administrative authorities for over five and a half years, and before the judicial authorities for almost two years, the Commission finds, bearing in mind the criteria established by the Convention organs in assessing the reasonableness of the length of proceedings (the complexity of the case, the applicant's conduct and the conduct of the authorities), that the period since 5 November 1992 does not exceed the "reasonable time" referred to by Article 6 (Art. 6).

It follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicant also alleges a violation of Article 6 para. 1 (Art. 6-1) of the Convention in connection with the fairness of the proceedings.

The Commission first notes in this respect that the Convention, and Article 6 (Art. 6) in particular, does not contain a right to "full compensation" for injury caused. In any event, part of the proceedings are pending at first instance, and so the complaint is therefore premature.

It follows that this complaint is also manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission unanimously

DECLARES THE APPLICATION INADMISSIBLE.

Secretary to the First Chamber — President of the First Chamber

(M.F. BUQUICCHIO) — (A. WEITZEL)