

French HIV-tainted blood trial

Court acquits former prime minister

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The trial of three former government ministers charged with manslaughter for their role in a scandal involving the supplying of HIV-tainted blood ended predictably with the acquittal of two ministers. No action was taken against a third who was found guilty.

On Tuesday, a special court cleared former Prime Minister Laurent Fabius, now speaker of the National Assembly (parliament) and Georgina Dufoix, Social Affairs minister in the government headed by Fabius from 1984 to 1986. The case was not heard before the High Court of Justice, but one more or less created for the occasion, the "Court of Justice of the Republic". Three "professional" judges, including the court's president and two other members of the judiciary for the prosecution, headed the court. It was also equipped with 23 "deputies"--members of the National Assembly and the Senate with a legal background.

By the twelfth day of the trial, which began February 10, chief prosecutor Jean-François Bergelin had already said that he could find no personal fault in Fabius's behaviour and that there was insufficient evidence to incriminate Fabius and his two ministers.

To the anger of AIDS victims and others, former Health Minister Edmond Herve was convicted of two cases of negligence but received no sentence. The court ruled that Herve should have ordered untreated blood supplies destroyed as soon as it became known there was a risk they might be contaminated with the virus that causes AIDS. Herve faced a possible five-year sentence, but the court ruled that the protracted scandal had deprived him of the right to the presumption of innocence.

The French Transfusion Association, an advocacy group for transfusion victims, said the acquittal of Fabius was "disgraceful" and that the trial had been "manipulated and discredited". Lower-ranking experts

and functionaries had been tried and found guilty in the course of the scandal, but it appeared that members of the government were untouchable, the group said.

"Politicians are like gangsters, unless you catch them with their hand in the cookie jar, you never get them," said Sylvie Rouy, a 35-year-old infected victim. Herve was found guilty of involuntary injury in the case of Ms. Rouy and involuntary manslaughter in the death of a two year old infected by a transfusion given to her mother before the girl's birth.

Before the trial, government negligence in screening blood supplies was not disputed. Yet for 10 years no action was taken against ministers for their response to the problem, which arose in the mid-80s when Fabius's Socialist Party government was in power. France did not introduce AIDS testing for blood donors until a French-made test was authorised for use in June 1985. Untested blood for transfusion and unheated, and therefore unsafe, coagulating concentrates were prescribed until October 1985.

In all, 4,400 people, many haemophiliacs or others who needed transfusions, contracted AIDS from the inadequately tested blood. About 40 percent have since died. Relatives of the dead and others contend that Fabius and his health officials deliberately delayed the introduction of testing donated blood for the AIDS virus, even though an American test developed by Abbott Laboratories was on the market in 1985. They say that the government stalled until a French test, developed by Diagnostics Pasteur, could be approved for reimbursement by the state health system.

Fabius vigorously disputed this and claimed, "The accusations made against me all these years were shown by the decision to be clearly unfounded."

So serious were the implications of this case, however, that no other verdict could be entertained. The

trial was the first time since World War Two that French ministers have faced prosecution for their official acts. The specially created "Court of Justice of the Republic" was set up in 1993 by then president François Mitterrand, to try politicians for offences committed while in office. Its performance in this case has proved the inability of such a body to hold politicians accountable for their actions.

In his summation, chief prosecutor Jean François Burgelin said: "Taken as a whole, the health policy of the government of France from April to September 1985 was catastrophic, as far as the struggle against the spread of AIDS was concerned. Badly informed, indecisive, pusillanimous, unconscious of the gravity of the epidemic, those politically responsible for public health did not rapidly take the measures that could have limited the extent of the disaster."

Burgelin concluded, however, that governments always made "mistakes". "Will we one day see the responsible ministers charged before this court with the deaths of the 2,544 people who have been victims over the past 30 years of accidents at railroad crossings that could have been avoided by building bridges, as people are constantly demanding?" he asked.

In this case, a "jury of one's peers" meant nothing other than a general amnesty for France's political elite.



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