

MINUTE: 23/

FILE: No RG 19/1178 - No Portalis DBX4-W-B7D-OQYW

CASE:

NAC:

JUDICIAL COURT OF TOULOUSE  
SOCIAL DIVISION

JUDGEMENT OF MARCH 20, 2023

COMPOSITION OF THE COURT during the hearings and deliberations:

President Stéphane LOBRY,

Assessors Christian AUGAREILS, Employer representative of the general scheme, Bernard CROUZIL, Employee representative of the general scheme

Clerk Amandine CAZALAS-LACASSIN

DEFENDANT

CPAM DE LA HAUTE GARONNE, headquartered at SERVICE JURIDIQUE - 3BOULEVARD LEOPOLD ESCANDE - 31093 TOULOUSE CEDEX 09

Represented by Mrs. Marion GOUZE with a special power of attorney

HEARINGS: In open court on January 16, 2023

DELIVERED on March 20, 2023

JUDGMENT: signed by the president and the clerk and made available on March 20, 2023.

FACTS, PROCEDURES, ARGUMENTS, AND CLAIMS OF THE PARTIES

By the judgment of March 17, 2021, which is expressly referred to for the presentation of the facts and the previous procedure, the social division of the judicial tribunal of Toulouse ordered the joining of file no 19-11178, dismissed XXXXXXXXXXXXXXXXXXXX's request for implicit recognition of the assumption of his

illness under occupational legislation, ordered the referral to the regional committee for the recognition of occupational diseases (CRRMP) of Bordeaux for its opinion on the existence of a direct and essential link between the declared pathology and Mr. XXXXXXXX's professional exposure.

The court also dismissed Mr. XXXXXXXX's request for the compensation fund to pay him the sum of 2,500 euros under Article 700 of the Civil Procedure Code, reserved the costs, and stated that provisional execution was not necessary.

The regional committee for the recognition of occupational diseases in the Nouvelle Aquitaine region rendered its opinion on April 26, 2022, in which it considered that the evidence of a direct and essential link between the pathology declared by Mr. XXXXXXXX and his professional exposure was not established.

The parties were duly summoned to the hearing on January 16, 2023.

Mr. XXXXXXXX, duly represented, requests the court to annul the implicit and explicit decisions of the appeals committee of the CPAM de la Haute-Garonne.

In the principal case, he requests that his illness be recognized as having a direct and essential causal link with his professional activity and that it be recognized as an occupational disease. He also requests that it be judged and ordered that the amount already received as disability pension since April 28, 2020, be offset against the sums that the fund will regularize for the occupational disease (daily allowances and possible annuity).

In the alternative, and before recognizing his occupational disease, Mr. XXXXXXXX requests the court to seek the opinion of the regional committee for the recognition of occupational diseases in the Pays de la Loire and to instruct the newly appointed committee to consult the engineer consultant of the CARSAT before rendering its opinion.

In an infinitely alternative manner and before rendering a decision, Mr. XXXXXXXX requests that a medical expertise measure be ordered to investigate whether there is a certain and essential causal link between his pathologies and his working conditions, and that judgment be suspended pending the opinion of the regional committee for the recognition of occupational diseases referred to by the court or the judicial expertise ordered.

Mr. XXXXXXXX requests the fund to be ordered to pay him the sum of 2,500 euros under Article 700 of the Civil Procedure Code, as well as all costs.

CPAM de la Haute-Garonne, duly represented, requests the court, in the principal case, to find that the regional committee for the recognition of occupational diseases in Toulouse-Midi-Pyrenees has found that there is no essential and direct causal link between the pathology declared by Mr. XXXXXXXXXXXX and his work, and therefore to dismiss Mr. XXXXXXXXXXXX's request for recognition of an occupational disease.

In the alternative, the fund requests that Mr. XXXXXXXXXXXX's request for a medical expertise to determine the existence of a direct and essential link between his condition and his professional activity be dismissed, and that it be noted that it defers to the court regarding the request to transmit Mr. XXXXXXXXXXXX's file to the regional committee for the recognition of occupational diseases in Pays de la Loire (Nantes site) for a third opinion on the existence of a direct and essential link between his condition and his professional activity.

In an infinitely alternative manner, if the court were to recognize the existence of a direct and essential causal link between the condition and Mr. XXXXXXXXXXXX's work, the fund requests that Mr. XXXXXXXXXXXX be ordered to acknowledge that he must reimburse the amounts received as a disabled pension since April 28, 2020.

In any event, the fund requests that Mr. XXXX be dismissed from any claim for his condemnation under Article 700 of the Civil Procedure Code and requests the court to rule on costs as appropriate.

The case was taken under advisement on March 20, 2023.

## REASONS

### I. On the assumption of the illness under occupational legislation.

Under the seventh paragraph of Article L. 461-1 of the Social Security Code, an illness not designated in an occupational disease table may also be recognized as of occupational origin when it is established that it is essentially and directly caused by the victim's usual work and that it results in the death of the victim or a permanent disability with a rate evaluated under the conditions mentioned in Article L. 434-2 and at least equal to a determined percentage.

In this case, the eighth paragraph of the same article specifies that the primary fund recognizes the occupational origin of the illness after a reasoned opinion from a committee on occupational diseases.

In support of his appeal, Mr. XXXXXXXX argues that all the pathologies have a direct and essential link to his professional activity. He presents several expert reports, medical certificates, and related documentation in the proceedings.

Mr. XXXXXXXX also provides an expert report from Dr. Tripodi, Head of the Professional and Environmental Pathology Center at CHU de Nantes, who examined him.

According to Mr. XXXXXXXX, this report highlights the direct and essential causal link between his condition and his professional exposure.

In this case, Mr. XXXXXXXX worked as a pilot since 1989 and was employed as an airline pilot by Airbus since November 1, 2011.

Mr. XXXXXXXX declared an occupational disease on August 23, 2018, and an initial medical certificate dated July 18, 2018, mentioned a "documented aerotoxic syndrome with chronic fatigue, neuropsychological disorders, and asthmatic bronchial syndrome."

After the transfer of Mr. XXXXXXXX's file to the regional committee for the recognition of occupational diseases in Toulouse, it rendered its opinion on February 25, 2019, rejecting the direct and essential link between his condition and his usual work.

The committee notably considered that no causal link had been established to date between exposure to pressurized cabin air containing organophosphates and the existence of persistent neurocognitive disorders.

Following the referral to the regional committee for the recognition of occupational diseases in Nouvelle-Aquitaine, it concluded in its opinion on April 26, 2022, that the evidence of a direct and essential causal link between the declared pathology and Mr. XXXXXXXX's professional exposure was not established.

According to the committee, the investigation conducted did not establish the presence of engine oils in the cockpit but rather a low concentration of volatile organophosphate compounds. The committee noted the letter from the occupational physician dated December 20, 2018, as well as that from the CARSAT consultant dated January 8, 2019.

The committee believed that the declared condition was multifactorial and, given the current state of knowledge, it was impossible to establish a direct and essential causal link between professional activities and the disease declared by Mr. XXXXXXXX.

However, it results from the medical expertise report by Dr. Tripodi dated August 30, 2022, that he considers, on the contrary, that the various pathologies declared by Mr. XXXXXXXX and mentioned in the initial medical certificate are attributable to his professional activity.

It should be noted that the fund did not raise any objections regarding this medical expertise report, even though its conclusions were presented during the proceedings.

In these circumstances, the court does not consider it appropriate to follow the two opinions of the regional committees for the recognition of occupational diseases in Toulouse and Nouvelle-Aquitaine, which considered that Mr. XXXXXXXX was suffering from a multifactorial condition and "that it is not possible, in the current state of knowledge, to establish a direct and essential causal link between the described professional activities and the declared condition," and therefore proposed to reject the direct and essential link.

The regional committee in Toulouse had notably stated that no causal link had been established: "between contaminated cabin air with organophosphates and the persistent occurrence of specific neurocognitive disorders."

On the contrary, the court believes that the evidence presented during the proceedings demonstrates the impact of the professional context in which Mr. XXXXXXXX worked on his health.

Indeed, all the medical certificates presented during the proceedings testify to the direct and essential link between the condition presented by Mr. XXXXXXXX and his usual work. Professor Belpomme, in particular, who specifies that he primarily treated Mr. XXXXXXXX from a neurotoxicological perspective for his aerotoxic syndrome, states: "The occupational origin of intoxication cannot be doubted, given international scientific publications concerning aerotoxic syndrome and the fact that many airplane pilots are now affected by this new condition."

Dr. Tripodi, on the other hand, notes that, in the literature, all authors agree: "that airplane pilots may be exposed to low levels of tricresyl phosphate emitted into the cabin air by the air renewal system, which can capture emissions of oils emitted by the engines when air is extracted from the toilets near these engines; These would be exceptional incidents but would require corrections."

According to the literature, this results in: "possible bronchial irritation syndromes, diffuse symptoms such as joint pain, headaches, digestive disorders, and general fatigue."

The expert emphasizes that cognitive disorders are also described: "with a decrease in cholinesterase function and the secretion of anti-glial cell antibodies."

Furthermore, the CARSAT consultant concluded on January 8, 2019, that the exposure of airplane pilots to toxic compounds "such as organophosphates is documented in several international studies."

Moreover, if, as the fund claims, the circumstances of the expertise conducted by Professor Herin, whose report is presented during the proceedings, are indeed different from Mr. XXXXXXXX's case, it should be noted that the expert stated: "The literature data on aerotoxic syndrome or 'fume events' allow us to consider the notion of pathological manifestations supposedly caused by breathing contaminated cabin air. Symptoms are non-specific and numerous, with various manifestations, including respiratory symptoms such as dyspnea, cough, and ENT irritation, as well as long-term asthenia, irritability, and neurological manifestations."

From all these elements, it results that the different pathologies presented by Mr. XXXXXXXX, namely a documented aerotoxic syndrome with chronic fatigue, neuropsychological disorders, and an asthmatic bronchial syndrome, have a direct and essential link with his usual work.

Thus, the condition declared by Mr. XXXXXXXX on August 23, 2018, must be covered under occupational legislation.

It will be the responsibility of CPAM de la Haute-Garonne to offset the amount of the sums already received by Mr. XXXXXXXX as disability pension since April 28, 2020, against the sums due under this occupational disease.

## II. On incidental claims

Any costs incurred will be borne by CPAM de la Haute-Garonne.

For the expenses incurred and not included in the costs, CPAM de la Haute-Garonne will be ordered to pay the sum of 1,500 euros to Mr. XXXXXXXX based on the provisions of Article 700 of the Code of Civil Procedure.

## THEREFORE

The court, ruling by contradictory judgment, in the first instance, and after deliberating in accordance with the law:

Orders CPAM de la Haute-Garonne to cover, under occupational legislation, the condition declared on August 23, 2018, by Mr. XXXXXXXX, namely a documented aerotoxic syndrome with chronic fatigue, neuropsychological disorders, and an asthmatic bronchial syndrome;

States that it will be the responsibility of CPAM de la Haute-Garonne to offset the amount of the sums already received by Mr. XXXXXXXX as disability pension since April 28, 2020, against the sums due under this occupational disease;

Orders CPAM de la Haute-Garonne to pay the sum of 1,500 euros to Mr. XXXXXXXX based on the provisions of Article 700 of the Code of Civil Procedure;

Leaves any costs to be borne by CPAM de la Haute-Garonne;

So done, judged, and pronounced by being made available to the registry on March 20, 2023.

The Clerk,  
(signed)

The President,  
(signed)