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

FIFTH SECTION

DECISION

Application no. 33289/12
Thoralf JURTZ
against Germany

The European Court of Human Rights (Fifth Section), sitting on 31 May 2016 as a Committee composed of:

Ganna Yudkivska, *President,*
André Potocki,
Síofra O'Leary, *judges,*

and Milan Blaško, *Deputy Section Registrar,*

Having regard to the above application lodged on 22 May 2012,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Thoralf Jurtz, is a German national, who was born in 1972 and lives in Holzkirchen. He was represented before the Court by Mr Rixe, a lawyer practising in Bielefeld.

The German Government ("the Government") were represented by one of their Agents, Mr H. J. Behrens.

On 2 October 2009 the applicant lodged a request with the Arnstadt Family Court to grant him the right to decide upon the residence of his daughter who was living with her mother.

The Family Court scheduled hearings for 29 January, 17 and 24 March 2010 and subsequently ordered an expert opinion. On 27 May 2010 the court-file was sent to the appointed expert who informed the Family Court by letter of 30 June 2010 that an expert opinion could not be submitted before March 2011. On 2 February, 3 and 6 June 2011 and 20 September 2011 the applicant complained about the protracted court proceedings. On 13 July 2011 he lodged an objection to delay (*Verzögerungsrüge*) and requested that a time-limit be set for the expert. On 10 October 2011 the applicant challenged the expert for bias because of the protracted length of time taken for preparation of his opinion. On 18 October 2011 the expert

submitted his report, which the Family Court forwarded on 9 January 2012. On 16 January 2012 the applicant challenged the presiding judge for bias. On 31 May 2012 the Court of Appeal granted the applicant's motion for bias against the presiding judge. On 14 November 2012 the Court of Appeal granted the applicant's motion for bias against the appointed expert. On 3 July 2013 the subsequent judge declared herself biased in the proceedings at issue.

On 28 July 2015, when the applicant lodged his application with the Court, the proceedings before the Family Court were still pending. The applicant complained under Article 8 of the Convention that the family court did not expedite the proceedings with the requisite exceptional diligence. Under Article 8, read in conjunction with Article 13 of the Convention, he further complained that German law does not provide an effective remedy for expediting protracted court proceedings in family matters.

On 14 and 21 January 2016 the Court received a joint declaration duly signed by both parties, whereby the Government acknowledged a violation of the applicant's rights under Article 8 alone and read in conjunction with Article 13. Furthermore, it declared to pay the applicant 12,000 euros (EUR) to cover any pecuniary and non-pecuniary damage as well as costs and expenses. The applicant agreed to have his application struck out of the Court's list of cases once the Government had paid this sum.

On 4 April 2016 the applicant informed the Court that he had received the amount of EUR 12,000 and agreed to his application being struck of the Court's list of cases.

THE LAW

In the light of the above, the Court considers that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention and that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the application under Article 37 § 1 *in fine*.

Accordingly, the case should be struck out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 23 June 2016.

Milan Blaško
Deputy Registrar

Ganna Yudkivska
President