

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

FIFTH SECTION

DECISION

Application no. 3503/11
S.A.S.
against Sweden

The European Court of Human Rights (Fifth Section), sitting on 17 April 2012 as a Committee composed of:

Boštjan M. Zupančič, *President,*
Elisabet Fura,
Ann Power-Forde, *judges,*
and Stephen Phillips, *Deputy Section Registrar,*

Having regard to the above application lodged on 6 December 2010,

Having regard to the interim measure indicated to the respondent Government under Rule 39 of the Rules of Court,

Having regard to the decision to grant priority to the above application under Rule 41 of the Rules of Court,

Having regard to the observations submitted by the Swedish Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, a Kurd, is an Iraqi national who was born in 1978 and originates from Raniyah in the Kurdistan Region of Iraq. The Swedish Government ("the Government") were represented by their Agent, Mr A. Rönquist, of the Ministry for Foreign Affairs.

The facts of the case, as submitted by the applicant, may be summarised as follows.

The applicant had had a relationship with a young woman of another clan. Her relatives had not allowed them to get married and when he had tried to convince them, he had been shot in the foot. When the relatives thereafter had found out that the woman was no longer a virgin, they had killed her. They had also searched for the applicant and threatened him through his relatives. Despite attempts made by his family, there had been no reconciliation. After the death of his father in 2003 there had been no one to mediate on his behalf. The relatives of the woman had asked for him as late as 2006 and the conflict was still ongoing. The applicant claimed that he would not receive any protection from domestic authorities because the woman's relatives belonged to a powerful clan that had ties to the ruling parties.

The applicant's request for asylum was first rejected in two sets of proceedings in 2002 and 2005. He was thereafter granted a temporary residence permit on grounds relating to the general situation in Iraq. In subsequent proceedings, on 6 November 2007, the Migration Board (*Migrationsverket*) again decided to reject the applicant's request for asylum. The Board held that, according to country information, the judicial system in the Kurdistan Region was functioning and that nothing suggested that the applicant would not receive help from domestic authorities or mediation institutions if he reported the incidents to those.

The applicant appealed and added that the woman's father was a commander of a battalion of Peshmerga soldiers and that the applicant had tried to speak to both the police and the Komalayati mediation institute about the threat against him but had received no help.

On 2 April 2008 the Migration Court (*Migrationsdomstolen*) upheld the decision of the Board. The court found no reason to question that the applicant had had an adulterous relationship, that relatives of the woman had found out about it and that they had threatened the applicant's life. The court, however, referring to country information concerning the Kurdistan Region, pointed out that that it was mainly women who risked honour-related violence and that local authorities worked against such violence. The court thus held that the applicant should seek protection from domestic authorities. The court found the applicant to lack credibility regarding the claims that he had already sought protection from the police and a mediation institute as well as the claim that the woman's father had a position that would affect the availability of protection from domestic authorities.

On 25 July 2008 the Migration Court of Appeal (*Migrations-överdomstolen*) refused leave to appeal.

COMPLAINT

The applicant complained under Articles 2 and 3 of the Convention that he would be subjected to serious ill-treatment or be killed by the family of the woman if he were to return to Iraq.

THE LAW

By a registered letter dated 2 December 2011 the Government's observations were sent to the applicant, who was requested to submit any observations together with any claims for just satisfaction in reply by 24 January 2012. The letter was returned to the Court unopened with a note that the applicant had moved. A previous letter sent to the applicant on 14 September 2011 was also returned unopened. The applicant has not contacted the Court since lodging his application in December 2010.

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

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

Stephen Phillips
Deputy Registrar

Boštjan M. Zupančič
President