CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 30623/02
by Nikolay Grigoryevich BONDARENKO
against Ukraine

The European Court of Human Rights (Second Section), sitting on 5 April 2005 as a Chamber composed of:

Mr A.B. BAKA, *President*,
Mr I. CABRAL BARRETO,
Mr R. TÜRMEN,
Mr V. BUTKEVYCH,
Mr M. UGREKHELIDZE,
Mrs E. FURA-SANDSTRÖM,
Ms D. JOČIENĖ, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 25 July 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Nikolay Grigoryevich Bondarenko, is a Ukrainian national, who was born in 1956 and resides in the village of Grodovka, in the Donetsk Region, Ukraine. The respondent Government are represented by their Agents - Mrs V. Lutkovska and Mrs Z. Bortnovska.

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

In 2001, the applicant instituted proceedings in the Novogrodovsky City Court of the Donetsk Region against the "Novogrodovskaya" Mining Company - a State-owned enterprise - to recover unpaid salary for the years 1998-2000.

On 3 May 2001, the Novogrodovsky City Court found in favour of the applicant and awarded him 4,369.73 UAH in salary arrears and compensation. The decision became effective on 14 May 2001 and was sent for execution to the Novogrodovsky City Bailiffs' Office. However, the decision was not executed, allegedly due to the failure of the Bailiffs' Office to act in not selling the property of the Mining Company.

The applicant instituted proceedings in the Novogrodovsky City Court of the Donetsk Region against the Novogrodovsky City Bailiffs' Office for failure to execute the court decision in his favour. On 11 September 2001, the City Court rejected the applicant's claim, finding that no fault had been committed by the Bailiffs' Office. The court stated that the Bailiffs' Office had presented the decision of the Commercial Court of 30 August 2000 to the respondent company, but was prohibited from enforcing the decision by selling the property of the mine, due to the bankruptcy proceedings which had been initiated against it.

On 1 November 2001, the Appellate Court of the Donetsk Region dismissed the applicant's appeal. On 20 February 2002, the panel of three judges of the Civil Chamber of the Supreme Court of Ukraine rejected the applicant's request for leave to appeal.

On 26 December 2001, the ban on the forced sale of assets belonging to undertakings in which the State holds at least 25% of the share capital, was entrenched in the Law on the Introduction of a Moratorium on the Forced Sale of Property.

According to the Government, in March 2004 the applicant received the major part (UAH 3,679.15[1]) of the amount awarded to him by the judgment of 3 May 2001. The remaining sum due to the applicant was UAH 690.58[2].

COMPLAINTS

The applicant originally complained under Article 6 § 1 of the Convention about the non-enforcement of the court decision in his favour. He further complained that the existing situation infringed his right to life under Article 2 § 1 of the Convention, given his low standard of living. The applicant finally alleged that he had been subjected to slavery due to the fact that his work was not remunerated. He invoked Article 4 § 1 of the Convention.

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[1] Around EUR 525.

[2] Around EUR 99.

THE LAW

Notice of the application was given to the Government, who submitted their observations on the admissibility and merits of the applicant's complaints on 16 February 2004. On 11 March 2004, the applicant was invited to submit his observations in reply. However, the Court notes that the applicant has failed to do so. Moreover, he has failed to respond to a registered letter dated 23 November 2004 and received by the applicant on 2 December 2004, warning the applicant of the possibility that his case might be struck out of the Court's list.

Having regard to Article 37 § 1 (a) of the Convention, the Court concludes that the applicant does not intend to pursue the application. 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 examination of this application to be continued. Accordingly, the application of Article 29 § 3 of the Convention should be discontinued.

For these reasons, the Court unanimously

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

S. DOLLÉ	A.B. BAKA
Registrar	President