CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 67760/01
by Viktor Aleksandrovich MIROSHNICHENKO
against Ukraine

The European Court of Human Rights (Second Section), sitting on 30 November 2004 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr I. CABRAL BARRETO,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mrs A. MULARONI,
Ms D. JOČIENĖ, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 25 November 2000,

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 Viktor Aleksandrovich Miroshnichenko, is a Ukrainian national, who was born in 1958 and lives in the town of Lisichansk, Lugansk region, Ukraine.

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

In 1998 the applicant instituted proceedings in the Lisichansk City Court against the Melnikov mine to recover unpaid salary.

On 4 June 1998 the Lisichansk City Court ordered the Melnikov mine to pay UAH 3,479.70 to the applicant.

On 12 June 1998 the State Bailiff Service of the Lisichansk City Department of Justice began enforcement proceedings.

On 27 October 2000 the Bailiff Service informed the applicant that the judgment of 4 June 1998 could not be enforced due to the debtor's lack of funds. It further stated that the applicant was registered on a creditors' waiting list under No. 250.

By letter of 27 January 2003, the applicant informed the Court that the judgment of 4 June 1998 could not be enforced due to the Melnikov mine's lack of funds.

By letter of 20 January 2004 the Government informed the Court that the judgment in the applicant's favour was enforced in full in November 2003.

COMPLAINTS

The applicant complained under Article 1 of Protocol No. 1 about the non-enforcement of the judgment of 4 June 1998. He further complained of discrimination on the ground of his social and property status and relied on Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1. In this connection, he alleged that the managers of the company regularly received their salary whereas he did not.

THE LAW

Notice of the application was given to the Government, which submitted their observations on the admissibility and merits of the applicant's complaints on 23 June 2003. On 8 July 2003, the applicant was invited to submit his observations in reply. However, the applicant failed to do so. Moreover, he failed to respond to a registered letter from the Registry of the Court dated 24 August 2004 and received by the applicant on 6 September 2004, warning him 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 to the case should be discontinued.

For these reasons, the Court unanimously

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

S. DOLLÉ
Registrar

J.-P. COSTA
President