

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

FIFTH SECTION

DECISION

Application no. 11838/05
START-94, TOV
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 26 March 2013 as a Committee composed of:

Angelika Nußberger, *President,*
Ganna Yudkivska,
André Potocki, *judges,*

and Stephen Phillips, *Deputy Section Registrar,*

Having regard to the above application lodged on 22 March 2005,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant company, Start-94, TOV is a limited liability company registered under Ukrainian law with its registered office in Boyarka. It was represented before the Court by Mr M. Smirnov, a lawyer practising in Kyiv.

The Ukrainian Government ("the Government") were represented by their Agent, Mr N. Kulchytskyy, of the Ministry of Justice.

The applicant company complained under Article 6 § 1 of the Convention about the breach of the principle of equality of arms on account of the fact that the public prosecutor had assisted the opponent company in the commercial proceedings in which the applicant company had participated.

The application was communicated to the Government, who submitted their observations. The observations were forwarded to the applicant

company's representative, who was invited to submit observations. No reply was received to the Registry's letter.

By letter dated 24 November 2011, sent by registered post, the applicant company's representative was notified that the period allowed for submission of the applicant company's observations had expired on 22 September 2011 and that no extension of time had been requested. The applicant's representative's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. The above letter was returned undelivered as the addressee was not found.

The Court sent two warning letters to the applicant company at two different addresses on 2 February 2012 by registered post, received on 15 February 2012 by the applicant company.

However, no response has been received by the Court.

THE LAW

The Court considers that, in these circumstances, the applicant company may be regarded as no longer wishing to pursue its 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	Angelika Nußberger President