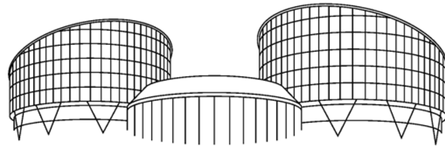

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 78612/12
Stanislav PŘIBIL
against the Czech Republic

The European Court of Human Rights (First Section), sitting on 5 March 2019 as a Committee composed of:
Tim Eicke, *President,*
Aleš Pejchal,
Gilberto Felici, *judges,*
and Renata Degener, *Deputy Section Registrar,*
Having regard to the above application lodged on 11 December 2012,
Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Stanislav Přibil, is a Czech national who was born in 1963 and lives in Ottawa, Canada. He was represented before the Court by Mr L. Vrána, a lawyer practising in Prague.

2. The Czech Government ("the Government") were represented by their Agent, Mr V. A. Schorm of the Ministry of Justice.

A. The circumstances of the case

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

1. Background to the case

4. In 2001 the applicant inherited a 35% equity interest in a limited liability company, E. (hereinafter "the company"), which was approved

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in 2005. According to the applicant, the value of his equity interest at the material time was approximately 11 million Czech korunas (CZK – approximately 450,000 euros (EUR)).

5. There were persisting disputes between the applicant and other company members and managers, and from 2005 onwards the applicant initiated a number of sets of proceedings against the other members and the company itself.

6. On 12 May 2010 the company applied to the České Budějovice Regional Court (*krajský soud*) to exclude the applicant from the company.

7. On 21 June 2010 the Regional Court granted a request for interim measures filed by the company and ordered the applicant not to handle documents and other objects on the company's premises or to request any information or documents from the company's employees. Following an appeal by the applicant, that decision was upheld by the Prague High Court (*vrchní soud*) on 5 October 2010.

8. Subsequently, the company requested enforcement of the interim order in enforcement proceedings, alleging that the applicant had breached his obligations.

9. The proceedings concerning the exclusion of the applicant from the company were discontinued by a decision of the Regional Court of 26 May 2011.

2. Enforcement proceedings

10. On 30 November 2010 the Jindřichův Hradec District Court (o*kresní soud*) ordered enforcement of the applicant's obligations under the interim order (enforcement instrument – *exekuční příkaz*) and appointed an enforcement officer (*soudní exekutor*) to take the necessary steps. This decision was served on the applicant on 11 January 2011, together with a notice by the enforcement officer calling on him to comply with his obligations and to pay the reduced costs of enforcement (*snížené náklady exekuce*) (costs of the enforcement officer and the company, amounting to CZK 11,520 (EUR 470)).

11. The applicant lodged an appeal against the enforcement, claiming that he had not breached his obligations. On 22 February 2011 the České Budějovice Regional Court upheld the District Court's decision, noting that the argument raised by the applicant was not relevant for ordering the enforcement but could be assessed in an application to discontinue the enforcement (*návrh na zastavení exekuce*), which could be lodged by the applicant.

12. On 14 March 2011 the enforcement officer ordered the applicant to pay the enforcement costs, amounting to CZK 15,120 (EUR 617) in total. The applicant did not lodge an objection. Since he considered the whole enforcement unlawful and groundless, he did not pay the enforcement costs either.

13. On 30 March 2011 the enforcement officer issued an enforcement order (*exekuční příkaz*) against the applicant's equity interest in the company, to recover the enforcement costs. The order was served on the applicant on 4 April 2011. He was also informed that at the moment of service he had lost his right to a settlement equity interest (*právo na vypořádací podíl*) and that the enforcement against his equity interest had the same legal effect as cancellation of his membership in the company by a court. He was informed that it was not possible to appeal against the enforcement order.

14. Prior to issuing the enforcement order, the officer checked which of the applicant's property could be made available for enforcement purposes and found out that apart from the equity interest he had, *inter alia*, almost CZK 400,000 (EUR 16,320) in his bank account and was the co-owner of various properties.

15. On 6 April 2011 the applicant paid the enforcement costs and applied to stay the enforcement (*odklad exekuce*). On the same day the enforcement officer issued a new order requiring the applicant to pay additional enforcement costs. The applicant lodged an objection on 15 April 2011.

16. On 7 April 2011 he applied to discontinue the enforcement (*zastavení exekuce*).

17. On 18 April 2011 the enforcement officer quashed the enforcement order of 30 March 2011, noting that the applicant had already paid the enforcement costs.

18. On 3 June 2011 the applicant lodged a constitutional complaint (*ústavní stížnost*) against the enforcement order of 30 March 2011.

19. On 24 June 2011 the Jindřichův Hradec District Court discontinued the enforcement and did not allow the enforcement officer's claim for enforcement costs. The court concluded that the whole enforcement was inadmissible because there was no evidence to show that the applicant had breached the obligations under the interim order (enforcement instrument). It further noted that as the enforcement officer had done nothing to enforce the obligations under the enforcement instrument, it was not correct to require any of the parties to the enforcement proceedings to pay the enforcement costs. The same conclusion was later reached by the District Court in a decision of 12 July 2011 quashing the enforcement officer's order concerning the additional enforcement costs of 6 April 2011 (see paragraph 15 above).

20. Following an appeal by the company, the District Court's decision to discontinue the enforcement of 24 June 2011 was quashed by the České Budějovice Regional Court on 1 February 2012. On 9 May 2012 the District Court discontinued the enforcement again, this time following an application by the company, as the claimant, on the basis that the enforcement instrument (interim order) had already expired as the main

proceedings had been discontinued. The Court was provided with no further information as regards the progress of the proceedings to discontinue the enforcement.

21. On 7 June 2012 the Constitutional Court (*Ústavní soud*) dismissed the applicant's constitutional complaint against the enforcement order of 30 March 2011 (see paragraph 17 above), noting that since the enforcement had been discontinued, the effects of the enforcement order had expired and the complaint had thus become ill-founded. The court also referred to its previous judgment (Pl. ÚS 51/05) finding the legislation ruling out appeals against enforcement orders not to be unconstitutional. It nonetheless *obiter dictum* criticised the enforcement officer's conduct:

> "In a situation where the contested enforcement order was directed against the applicant's [equity interest in the company] worth several millions [Czech korunas] in order to enforce the enforcement costs of CZK 15,120, and moreover in enforcement proceedings aiming to enforce [obligations] to abstain from some conduct which had been imposed on the [applicant] not by a decision on the merits but by a 'mere' interim measure, and also taking into account the implications of the [relevant legislation of the Commercial Code], the conduct of the enforcement officer was absolutely disproportionate and in utter disregard of the judgment of the Constitutional Court no. I. ÚS 752/04."

3. *Other steps taken by the applicant and by the company in parallel with the enforcement proceedings*

22. On 5 April 2011, following service of the enforcement order of 30 March 2011, the applicant lodged a request for interim measures with the Jindřichův Hradec District Court to forbid the company from handling the vacated equity interest until a final decision had been taken on discontinuation of the enforcement.

23. Following doubts as to its jurisdiction and a jurisdictional decision of the Prague High Court, on 17 May 2011 the District Court dismissed the applicant's request for interim measures on the grounds that the enforcement order had already been quashed.

24. On 8 April 2011, a day after the company's lawyer had learned of the applicant's request, a general meeting of the company was held. It was decided that the applicant's equity interest would be distributed among the other company members.

25. On 31 May 2011 the company prepared a draft plan for its transformation (change of legal form) into a joint-stock company, which was registered in the Companies Register (*obchodní rejstřík*) the following day. In a general meeting held later the company approved the change of legal form in accordance with the plan.

26. On 24 June 2011 the applicant lodged a new request for interim measures to forbid the company from continuing the transformation process, in particular to hold a general meeting to decide on the change of its legal form. The District Court granted the request on 1 July 2011.

Following an appeal by the company, the decision was quashed by the České Budějovice Regional Court on 25 August 2011. The court concluded that the District Court had no competence to rule on the applicant's request whereas it did. On 20 February 2012 the Regional Court dismissed the applicant's request on the merits.

27. On 5 August 2011 the applicant lodged another request for interim measures to prevent the company from continuing the transformation process; it was dismissed by the České Budějovice Regional Court on 8 August 2011.

28. On 10 October 2011 the change of legal form of the limited liability company into a joint-stock company was finally registered in the Companies Register.

4. Other relevant facts

29. On 25 May 2011 the company paid the applicant a settlement equity interest amounting to CZK 8,586,521 (EUR 350,470). The exact amount was calculated on the basis of the company's financial statements as at 4 April 2011, after deduction of tax. The applicant received it the following day.

30. On 20 April 2012 the applicant lodged a claim against the company, seeking the payment of an extra CZK 1,859,900 (EUR 75,914) on his settlement equity interest. According to the latest information received from the parties, the proceedings were stayed on 13 February 2013 at the applicant's request.

31. On 27 January 2014 the applicant complained to the Minister of Justice about the enforcement officer's conduct. On 14 April 2014 he was informed that his complaint had been considered unfounded.

32. On 18 April 2014 the applicant claimed compensation from the Ministry of Justice under the State Liability Act (Act no. 82/1998), seeking CZK 39,500,000 (EUR 1,612,245) for loss of profit (expected profit from the company over the following years) caused by the enforcement officer's misconduct. The Ministry dismissed his claim on 7 October 2014, concluding that he had failed to prove the damage sustained and to provide evidence to support the claim for loss of profit. According to the information provided by the Government, the applicant subsequently initiated compensation proceedings against the Ministry which are still pending.

B. Relevant domestic law and practice

1. Act no. 120/2001 on Enforcement Officers and Enforcement Activities ("Enforcement Procedure Act"), as in force at the material time

33. Under section 32, an enforcement officer is liable for any damage caused in the context of enforcement activities, unless the damage could not have been prevented even if all reasonable efforts which may have been required of him or her had been exercised. The State's liability for damage under the State Liability Act is not affected by this provision.

34. Pursuant to section 44(1) and (4), an enforcement officer who has received a request from a claimant for enforcement must request the court's authorisation to carry out the enforcement. The court may order the enforcement and authorise the enforcement officer if all the statutory prerequisites are met.

35. Under section 47(1), once the enforcement is ordered the enforcement officer must consider the method of enforcement and issue an enforcement order against the property concerned. The enforcement officer is obliged to choose a method of enforcement which does not appear unsuitable, particularly with regard to the disproportion in value between the defendant's obligations and the affected property.

36. Section 47(3) and section 55c(3) provide that an enforcement order or an order to pay enforcement costs is not amenable to appeal.

37. Under sections 54 and 55 respectively it is possible to apply to stay or discontinue the enforcement; if the enforcement officer does not grant the application, he or she must refer the matter to a court.

38. Under section 88(3) an objection (*námitky*) may be lodged against an order to pay enforcement costs; if the enforcement officer does not grant it in full he or she shall refer the matter to a court.

2. Code of Civil Procedure (Act no. 99/1963)

39. Article 268 § 1 sets out the reasons for discontinuation of the enforcement of a decision. Under Article 268 § 1 (h) the enforcement must be discontinued as inadmissible if the decision cannot be enforced for any reason (other than those listed previously). Article 268 § 4 provides that the enforcement may be partially discontinued if the scope of the order for enforcement is broader than is sufficient to satisfy the claimant's claim.

3. The old Commercial Code (Act no. 513/1991), as in force at the material time

40. Article 148 § 2 provided that an enforcement order against the equity interest of a member of a limited liability company had, once the decision

ordering the enforcement became final, the same legal effect as cancellation of his or her membership in the company by a court.

41. Article 148 § 4 provided that the membership of a former member could be renewed if the enforcement had been discontinued by a final decision of a court and the company had not yet dealt with the vacated equity interest (transferred it to another person/other persons or reduced its registered capital correspondingly). If a settlement equity interest had already been paid, the membership could be renewed provided that the former member reimbursed the settlement equity interest within two months.

4. State Liability Act (Act no. 82/1998)

42. This Act provides that the State is liable for any damage caused in the exercise of public authority by an irregularity in a decision or in official conduct. Pursuant to section 3(1)(b) in conjunction with section 4 the State is also liable for any damage caused by enforcement officers exercising enforcement activities, since their activities are considered to be official conduct.

5. Relevant domestic case-law

43. In plenary decision no. Pl. ÚS 51/05 of 3 March 2009 the Constitutional Court did not find the unavailability of an appeal against an enforcement order unconstitutional. It held that it was justified by the requirement for enforcements to be carried out as quickly as possible and efficiently, and pointed to other remedies available to the defendant: requests to discontinue or stay the enforcement in particular, and the possibility to lodge an objection against an order to pay enforcement costs. Last but not least, the court emphasised the objective (strict) liability of an enforcement officer for damage under section 32(1) of the Enforcement Procedure Act.

44. In judgment no. IV. ÚS 4489/12 of 4 June 2014 the Constitutional Court quashed the lower courts’ decisions dismissing an action for compensation under the Enforcement Procedure Act against an enforcement officer who had chosen a disproportionate method of enforcement (against the defendant’s membership share in a housing cooperative). The Constitutional Court found a violation of his right to a fair trial and right to the protection of property and emphasised the protective purpose of the last sentence of section 47(1) of the Enforcement Procedure Act, which aimed to protect the individual from excessive interference with his or her property (such as where a tiny financial amount is enforced against property of a much greater value).

45. In judgment no. IV. ÚS 3377/12 of 16 May 2013 the Constitutional Court quashed the decision of an appellate court dismissing an action for

compensation under State Liability Act for the unlawful conduct of an enforcement officer who had directed enforcement orders against the wrong person, not the correct defendant. The Constitutional Court found violations of the right to a fair trial and right to the protection of property.

46. In judgment no. I. ÚS 752/04 of 31 October 2007 the Constitutional Court emphasised the principle of proportionality and the lawful protection of the defendant's property exceeding the obligation under enforcement as one of the fundamental principles of the enforcement proceedings.

47. In judgment no. 25 Cdo 970/2006 of 30 July 2008 the Supreme Court held that both the State and the enforcement officer are liable for any damage caused by the latter within the enforcement proceedings; the injured party may claim compensation from both or either of them under the State Liability Act and the Enforcement Procedure Act respectively.

COMPLAINTS

48. The applicant complained firstly, under Article 6 of the Convention, that he had been unable to challenge the enforcement order of 30 March 2011 against his equity interest in the company, which had amounted to a breach of his right of access to a court. He argued that the enforcement officer had not met the requirements of the impartial and independent tribunal under Article 6. Secondly, he complained that the courts had refused to grant his subsequent requests for interim measures and had delayed in taking decisions concerning those requests. Thirdly, he maintained that his right to have his case heard within a reasonable time had also been breached in another set of court proceedings in which he had initially sought protection of the rights of the company as well as of his own rights as a company member against the management of the company.

49. The applicant also relied on Article 1 of Protocol No. 1, complaining that he had been deprived of his equity interest in the company by the enforcement officer and that the State had failed to protect his property rights in the excessively long proceedings previously initiated against the company managers.

THE LAW

50. Relying on Article 6 of the Convention and Article 1 of Protocol No. 1, the applicant complained that he had been deprived of his equity interest in the company, that he had been unable to appeal to a court against that interference and that there had been various procedural flaws in several related sets of proceedings. The relevant provisions read as follows:

Article 6

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing within a reasonable time by an independent and impartial tribunal ..."

Article 1 of Protocol No. 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Complaint under Article 1 of Protocol No. 1

51. The Government considered the complaint inadmissible for non-exhaustion of domestic remedies. They pointed out that the applicant had failed to seek compensation for the alleged damage under the State Liability Act and/or to sue the enforcement officer for damages under the Enforcement Procedure Act. They also relied on domestic case-law showing the effectiveness of the remedy under the State Liability Act. Alternatively, they considered the complaint inadmissible for abuse of the right of individual application or as manifestly ill-founded.

52. The applicant disagreed and challenged the effectiveness of the compensatory remedies mentioned by the Government, arguing that in his case it had not been possible to identify all the necessary details of the damage caused to him, including the precise amount, since he had questioned the officially declared value of the company's assets on the basis of which the value of his equity interest had been calculated. In addition, he asserted that he could not be effectively compensated for having lost, on the grounds that he had ceased to be a company member, his various claims against the company management.

53. At the outset, the Court notes that under Article 1 of Protocol No. 1 the applicant raised two complaints: one concerning the loss of his equity interest in the company and another concerning his other unsuccessful claims against the company management, as a consequence of the lost equity interest. With respect to the latter complaint, however, the Court sees no separate issue arising under the aforementioned provision.

54. The Court points out to the subsidiary nature of the system of protection established by the Convention in relation to the national systems safeguarding human rights. The purpose of the requirement to exhaust domestic remedies (Article 35 § 1 of the Convention) is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to the

Court. States are dispensed from answering for their acts before an international body before they have had an opportunity to put matters right through their own legal system. Consequently, those who wish to invoke the supervisory jurisdiction of the Court as concerns complaints against a State are obliged to use first the remedies provided by the national legal system (see, for example, *Akdivar and Others v. Turkey*, 16 September 1996, § 65, *Reports of Judgments and Decisions* 1996-IV; *Selmouni v. France* [GC], no. 25803/94, § 74, ECHR 1999-V; and *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 70, 25 March 2014).

55. The obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances. There is no obligation to have recourse to remedies which are inadequate or ineffective. To be effective, a remedy must be capable of remedying directly the impugned state of affairs and must offer reasonable prospects of success. However, the existence of mere doubts as to the prospects of success of a particular remedy which is not obviously futile is not a valid reason for failing to exhaust that avenue of redress (see *Vučković and Others*, cited above, §§ 71, 73-74, with further references).

56. As regards the burden of proof, it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one, available in theory and in practice at the relevant time. Once this burden has been satisfied, it falls to the applicant to establish that the remedy advanced by the Government was in fact exhausted, or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him or her from this requirement (ibid., § 77).

57. Turning to the present case, the Court observes that once the applicant had lost his equity interest in the company, the possibility to seek compensation for the loss indeed became relevant from the perspective of his right to property under Article 1 of Protocol No. 1 (compare, *mutatis mutandis*, also *Kohlhofer and Minarik v. the Czech Republic*, nos. 32921/03 and 2 others, § 112, 15 October 2009). Under domestic law, the applicant could have sought – from the State and/or the enforcement officer – compensation for both pecuniary and non-pecuniary damage allegedly caused by the enforcement officer’s conduct (see paragraph 42 above), namely by the applicant’s loss of his equity interest in the company on the basis of the enforcement order of 30 March 2011. Moreover, the domestic case-law – particularly that of the Constitutional Court – shows that the compensatory remedy under the State Liability Act is generally adequate and effective in cases of unlawful and/or disproportional enforcement (see paragraphs 45 and 47 above).

58. The applicant questioned the effectiveness of the compensatory remedies in the specific circumstances of his situation, pointing to the difficulty in the precise determination of the damage. This objection does not stand up in the present case. The Court reiterates that the possessions protected by Article 1 of Protocol No. 1 can be either "existing possessions" or assets in respect of which an applicant can argue that he has at least a "legitimate expectation" that they will be realised (see, for example, *Gratzinger and Gratzingerova v. the Czech Republic* (dec.), no. 39794/98, § 69, ECHR 2002-VII). This provision also protects, as a possession, a company share with an economic value (compare *Olczak v. Poland* (dec.), no. 30417/96, § 60, ECHR 2002-X (extracts) or *Lekić v. Slovenia*, no. 36480/07, § 71, 14 February 2017). Although an equity interest in a company is a complex object, it must be able to be valued in monetary terms. Therefore, as far as being covered by Article 1 of Protocol No. 1, the value of the applicant's equity interest in the company could certainly be calculated, expressed in monetary terms and, had it exceeded the amount of the settlement equity interest received by the applicant (see paragraph 29 above), claimed in the compensation proceedings.

59. Lastly, in its assessment of the requirement to exhaust domestic remedies the Court cannot fail to notice that the applicant indeed brought proceedings both against the State, seeking loss of profit as a consequence of the loss of his equity interest in the company, and against the company, claiming a higher amount for the lost equity interest and seeking an additional payment on his settlement share. Both sets of proceedings are pending, according to the latest information provided by the Government (see paragraph 32 above).

60. Having regard to all the foregoing considerations, the Court concludes that the Czech legal system afforded the applicant an effective remedy against that interference – a claim for full compensation for the loss of his equity interest company against the State and/or the enforcement officer – which he failed to use. Accordingly, his complaint under Article 1 of Protocol No. 1 must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

B. Complaint under Article 6 of the Convention

61. The applicant complained under Article 6 § 1 of the Convention that he had been unable to challenge the enforcement order of 30 March 2011 before a court, which had amounted to a breach of his right of access to a court.

62. The Government argued that the applicant had had several remedies available, both of a preventive and compensatory nature, and that he had failed to use some of them. They also observed that the enforcement proceedings as a whole had been fair and that although no appeal had been

available against the enforcement order, the applicant had had several other opportunities to request a judicial review within the enforcement proceedings.

63. The Court first notes that although in cases of interference with peaceful enjoyment of possessions the existence and provision of procedural protection and guarantees in respect of the interference is often examined under Article 1 of Protocol No. 1 itself (see, for example, *Forminster Enterprises Limited v. the Czech Republic*, no. 38238/04, § 59, 9 October 2008, and *Vrzić v. Croatia*, no. 43777/13, § 110, 12 July 2016), there are still some procedural issues to be considered under Article 6 § 1 alone. As the Court has already observed in the context of confiscation cases (see, for example, *Veits v. Estonia*, no. 12951/11, § 57, 15 January 2015), these include the right to access to a court (compare, in different contexts, *Zehentner v. Austria*, no. 20082/02, § 36, 16 July 2009, and *Kohlhofer and Minarik v. the Czech Republic*, nos. 32921/03 and 2 others, 15 October 2009) or to an adequate opportunity to put one's case to the courts, pleading, as the case might be, illegality or arbitrariness of a certain measure and lack of reasonable conduct on the part of the relevant authorities. Accordingly, in the present case, the complaint about the inability to obtain a judicial review of the enforcement order against the applicant's property falls to be examined under Article 6 § 1 of the Convention.

64. Having regard that the present case relates to the enforcement proceedings, the Court reiterates the positive obligation of States to organise a system of enforcement of judgments that is effective both in law and in practice (see *Fuklev v. Ukraine*, no. 71186/01, § 84, 7 June 2005).

65. Turning to the circumstances of the instant case, the Court observes that under Czech law it is indeed not possible to challenge an enforcement order by way of an appeal before a court (see paragraph 36 above). Nonetheless, it cannot be said that the conduct and procedural steps of an enforcement officer would not be under the supervision of a court. That also applies to an enforcement order against a debtor's property; if the latter considers the order to be disproportionate, he may apply to discontinue the enforcement, claiming that the scope of the order is broader than necessary. Where the application is not allowed by the enforcement officer himself, the matter is referred to a court (see paragraphs 38 and 43 above). Moreover, as the present case itself shows, an enforcement order may also be challenged directly before the Constitutional Court, although the review carried out by that court is limited to constitutional issues.

66. Having regard to the aforementioned procedural safeguards, as well as to the context of enforcement proceedings which should lead to the effective, timely and adequate satisfaction of a claimant whose claim had previously been adjudged by a court or formally admitted by the debtor, the Court concludes that an enforcement order – though not amenable to

a direct appeal – is not excluded from any judicial review. Accordingly, Czech law provides the debtor with the procedure to contest arbitrary or unlawful enforcement.

67. It follows that the applicant's complaint that he had been unable to obtain a judicial review of the enforcement order must be considered manifestly ill-founded and rejected under Article 35 §§ 3 (a) and 4 of the Convention.

C. Remaining complaints

68. Lastly, the applicant complained, under Article 6 § 1 of the Convention, that the courts had refused to grant his subsequent requests for interim measures and had delayed in taking decisions concerning those requests. He further maintained that his right to have his case heard within a reasonable time had also been breached in other court proceedings where he had initially sought protection of the rights of the company as well as of his own rights as a company member against the management of the company.

69. However, in the light of all the material in its possession, and in so far as these complaints are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

70. It follows that the remainder of the application must be rejected in accordance with Article 35 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 28 March 2019.

Renata Degener	Tim Eicke
Deputy Registrar	President