CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 5476/03
by Vasyl Oleksandrovych SENCHILO
against Ukraine

The European Court of Human Rights (Second Section), sitting on 23 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 12 January 2003,

Having regard to the decisions to communicate the application and to apply Article 29 § 3 of the Convention with a view to the joint examination of the admissibility and merits of the case,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Vasyl Oleksandrovych Senchilo, is a Ukrainian national, who was born in 1927 and currently resides in Gorlivka, the Donetsk Region.

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

The applicant is a former employee of the State company "Artemshakhtobud" (the "ASB").

On 12 September 2000 the Tsentraly District Court of Gorlovka (the "Tsentralny Court") ordered the ASB to pay the applicant UAH 3,892.16 and UAH 1,354 in industrial injury benefits and compensation for the rise in the standard of living, respectively.

On 10 October 2000 the Tsentralny District Bailiffs Service (the "TDBS") initiated the execution proceedings in the case.

As the judgment of 12 September 2000 remained inoperative the applicant introduced a claim with the Tsentralny Court for compensation for damage caused by the delay in its execution. On 4 July 2001 the court allowed the applicant's claims and awarded him UAH 987.03 in compensation.

On 11 March 2002 the TDBS informed the applicant that the judgments given in his favour could not be executed due to the ASB's lack of funds.

On 20 November 2002 the TDBS informed the applicant that the judgment could not be executed immediately due to the ASB's debts and the moratorium imposed on the sale of the ASB's property, in which the State owned 25 % of the shares.

On 13 March 2003 the applicant informed the Court that he had been paid UAH 1,000 in partial execution of the judgments and that the execution proceedings in his case were still pending.

In their observations on the admissibility and merits of the application, the Government maintained that the full amount of the sum awarded to the applicant had been paid to him in eight instalments.

COMPLAINTS

The applicant complains about the non-execution of the judgments given in his favour. He does not invoke any provision of the Convention. However, in substance, he relies on Article 6 § 1 of the Convention.

THE LAW

Notice of the application was given to the Government on 24 October 2003. The Government submitted their observations on the admissibility and merits of the applicant's complaint on 2 February 2004. The applicant has failed to submit his observations in reply. Moreover, he has failed to respond to the communications from the Registry of the Court, the last of which was a registered letter dated 12 August 2004 warning the applicant of the possibility that his case might be struck out of the Court's list if he failed

to respond. The applicant received this letter personally on 26 August 2004. However, the Registry did not receive a reply to it.

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 also 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