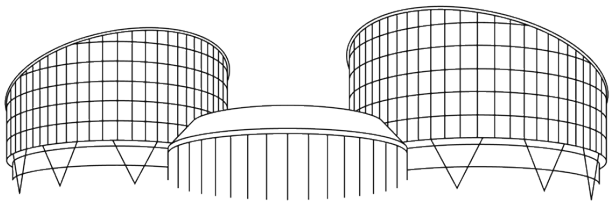

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF PELLYA v. RUSSIA

(Application no. 16869/08)

JUDGMENT

STRASBOURG

10 April 2012

FINAL

10/07/2012

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Pellya v. Russia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Nina Vajić, *President,*
Anatoly Kovler,
Elisabeth Steiner,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*

and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 20 March 2012,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 16869/08) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Pavel Andreyevich Pellya ("the applicant"), on 20 February 2008.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. On 16 March 2009 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

4. In accordance with the pilot judgment *Burdov v. Russia (no. 2)* (no. 33509/04, ECHR 2009), the application was adjourned pending its resolution at the domestic level.

5. The Government requested the Court to examine the application on the merits. The Court therefore decided to resume examination of the present case.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1942 and lives in Lahti, Finland.

7. On 18 June 1999 the Krasnoselskiy District Court of St Petersburg ("the District Court") found that unlawful actions of police officers in 1993 had resulted in harm to the applicant's health manifesting itself in partial loss of ability to work. This judgment and a supplementary judgment of 11 October 1999 recovered from the State treasury in the applicant's favour lost earnings up to 1 February 2000 in the amount of 109,751 Russian roubles (RUB) and compensation of non-pecuniary damage in the amount of RUB 10,000. It appears from the applicant's own submissions that the award was paid to him in 1999.

8. On an unspecified date the applicant brought a new action seeking recovery of lost earnings for the period from 1 February 2000 to 1 March 2005 and further monthly payments to be re-calculated in accordance with the minimum wage, reimbursement of expert fees and compensation for sanatorium treatment.

9. By a judgment of 3 March 2005 the District Court granted his claims in part, however the judgment was reversed on appeal on 18 April 2005, and the case was remitted to the first instance for fresh examination.

10. On 19 September 2005 the District Court again granted the claims in part awarding the applicant lost earnings in the amount of RUB 378,185 and related monthly payments in the amount of RUB 8,911 to be adjusted to the cost of living, RUB 39,585 for sanatorium treatment, and RUB 5,600 as reimbursement of the expert fees.

11. The above judgment was not challenged on appeal. The enforcement documents received by the Ministry of Finance on 25 October 2005 were returned to the applicant in April 2006 due to unidentified inconsistencies in the judgment.

12. On 18 June 2007 the District Court considered the applicant's application for adjustment of the amounts awarded by the judgment of 19 September 2005. The court rejected the application but clarified the original judgment by specifying that the responsibility for its enforcement lay with the Ministry of Finance. A new writ of enforcement was issued.

13. On 29 January 2008 the judgment of 19 September 2005 was enforced in full. It transpires from the documents submitted by the Government and covering the period between February 2008 and February 2010 that the monthly payments in the amount determined by the District Court on 19 September 2005 were regularly credited to the applicant's account.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1 IN RESPECT OF DELAYED ENFORCEMENT OF THE JUDGMENT OF 19 SEPTEMBER 2005

14. Without referring to any particular provision of the Convention, the applicant complained that he was not receiving the compensation due to him under the judgment of 19 September 2005. The Court will examine this complaint under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. The relevant parts of these provisions read as follows:

Article 6 § 1

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... 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."

15. The Government did not dispute the allegation that the judgment of 19 September 2005 had been enforced with a delay.

16. The applicant maintained his complaint.

A. Admissibility

17. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

18. The parties' arguments are summarised in paragraphs 15 and 16 above.

19. The Court reiterates that an unreasonably long delay in the enforcement of a binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III).

20. The Court observes that the judgment of 19 September 2005 was enforced in respect of the awarded lump-sum amounts and monthly compensation arrears on 29 January 2008, that is approximately two years and four months later. It further observes that no part of the delay in the enforcement is attributable to the applicant.

21. Regard being had to the above and to the Government's tacit acknowledgment of the authorities' failure to enforce the judgment in good time, the Court finds that the State has failed to comply with its obligations under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1 IN RESPECT OF DELAYED ENFORCEMENT OF THE JUDGMENT OF 18 JUNE 1999, AS SUPPLEMENTED ON 11 OCTOBER 1999

22. The applicant complained of lengthy enforcement of the judgment of 18 June 1999, which was supplemented by the judgment of 11 October 1999. The Court will examine his complaint under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, as detailed above.

23. The Government did not provide any comments on the issue.

24. The Court observes that the applicant stated in his original submissions that the amounts awarded to him by the above judgment had been paid to him in 1999 (see paragraph 7 above). Consequently, the delay in the enforcement of the judgment of 18 June 1999 did not exceed six months. Having regard to its well-established case-law (see, among others, *Belkin and Others v. Russia* (dec.), nos. 14330/07 et al., 5 February 2009), the Court considers that this period complied with the requirements of the Convention.

25. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

27. The applicant failed to submit his claim for just satisfaction within the time-limit allocated by the Court. In these circumstances the Court considers that there is no call to make any award on this account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning delayed enforcement of the judgment of 19 September 2005 admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 on account of delayed enforcement of the judgment of 19 September 2005.

Done in English, and notified in writing on 10 April 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen	Nina Vajić
Registrar	President