



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

FIFTH SECTION

CASE OF ILYADI v. RUSSIA

(Application no. 6642/05)

JUDGMENT

STRASBOURG

5 May 2011

FINAL

05/08/2011

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

In the case of Ilyadi v. Russia,

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

Dean Spielmann, *President*,

Elisabet Fura,

Karel Jungwiert,

Anatoly Kovler,

Mark Villiger,

Ganna Yudkivska,

Angelika Nußberger, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 5 April 2011,

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

PROCEDURE

1. The case originated in an application (no. 6642/05) 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 Yuriy Daniilovich Ilyadi (“the applicant”), on 17 January 2005.

2. The applicant, who had been granted legal aid, was represented by Mr E. Selyukov, a lawyer practising in Krasnodar. The Russian Government (“the Government”) were represented by Mrs V. Milinchuk, former Representative of the Russian Federation at the European Court of Human Rights.

3. On 9 March 2007 the President of the First Section decided to give notice of the application to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1951 and lives in Krasnodar.

A. Criminal proceedings against the applicant

5. On 24 July 2003 the applicant was arrested in Moscow on suspicion of facilitating the sale of a forged promissory note, an offence under Article 186 § 2 of the Criminal Code.

6. On 26 July 2003 the Gagarinskiy District Court of Moscow remanded the applicant in custody. On 25 September, 17 October and 19 December 2003 the applicant's detention was extended. On 30 January 2004 the District Court fixed the opening of the trial for 16 February 2004 and extended the applicant's detention. It appears that the applicant did not lodge an appeal against any of the extension orders.

7. During the investigation, on 25 July and 17 December 2003 the investigator interviewed, among other witnesses, Captain P., whose position was described as "senior operational officer of the 4th Interior Department of the 1st Operative Field Division of the Economic Crime Directorate of Moscow". According to the interview record, his identity was certified by a police badge issued by the Main Police Directorate of Moscow. It follows from the record that Captain P. testified, in particular, that he had been asked to pose as the purchaser of the forged promissory note which the applicant's co-defendant, Mr K., had undertaken to procure for him. He also stated that he had seen Mr K. take the envelope containing the forged note from the applicant.

8. Although Captain P. was listed as a witness for the prosecution, he did not appear at the trial hearings on 23 March, 8 April, 21 April, 18 May and 1 June 2004. The applicant's defence did not object to the closing of the judicial inquiry in Captain P.'s absence or to his written statement made during the pre-trial investigation being read out. However, since the prosecutor insisted on the attendance and examination of Captain P. in court, the final hearing was adjourned until 3 June 2004.

9. At the hearing on 3 June 2004 the prosecutor orally informed the court that, according to information from Captain P.'s superior, Captain P. had been sent on a long-term mission to another town. The prosecutor asked to read out his written deposition and the defence had no objections. That was the last trial hearing.

10. In the meantime, counsel for the applicant launched his own inquiries about the whereabouts of Captain P. First he unsuccessfully attempted to reach him at the phone number which was listed in the interview record, and subsequently, on 28 May and 16 June 2004, he asked the head of the Economic Crime Directorate of the Moscow Police to confirm in writing that Captain P. was or had been one of their employees. By letters of 2 and 25 June 2004, the head of the Economic Crime Directorate replied as follows:

“In response to your inquiry, I inform you that all the available information concerning Mr P[...] is present in the materials of criminal case no. 193476. Detailed information may be provided upon request of the trial judge.”

11. On 8 June 2004 the Gagarinskiy District Court delivered judgment. It found the applicant and Mr K. guilty of selling a forged promissory note and sentenced the applicant to five years and nine months’ imprisonment in a high-security correctional colony. In finding the applicant guilty, the District Court referred to the following testimonies by witnesses:

“The witness [Major] Kr. of the Organised Crime Unit of the South-Western Department of the Moscow Police testified in court that on 24 July 2003 he and Officer B. had taken part in the apprehension of individuals who had been suspected of being involved in the sale of forged securities. At about 6 p.m. Kr. and B. sat in Room 1007 in the Sputnik hotel ... After they received information that the seller of the forged note had been detained, they went to Room 1008 where they saw K. whom they had not met previously. Kr. had put questions to K., and it followed from K.’s replies, which were given without any pressure, that K. had sold a forged promissory note ... for one million roubles and that the note itself and the money had stayed on the table ... Kr. explained that he had examined the crime scene and seized the note and the money ...

The witness [Lieutenant-Colonel] B. of the Organised Crime Unit of the South-Western Department of the Moscow Police testified in court that on 24 July 2003 he had taken part in the arrangements for apprehending the individuals suspected of selling forged securities. In particular, he had booked Rooms 1007 and 1008 in the Sputnik hotel, and he sat in the first room, together with Kr., waiting for the signal. Neither he, nor Kr. had taken part in the arrest of the suspects but, upon receiving information about the arrest, they came to Room 1008. K. was in the room, [the applicant] Mr Ilyadi was brought there later ...

It follows from the pre-trial statement by [Captain] P. of the Economic Crime Directorate of the Moscow Police, given on 25 July 2003 and read out in court with the parties’ consent, that in mid-July 2003 the Economic Crime Directorate of the Moscow Police received operative information about a person who was looking for a way to sell forged promissory notes. It was established that this person was Mr K... It was decided to carry out a ‘controlled purchase’, in which P. was to pose as the ‘purchaser’... K. was asked to procure a promissory note having the nominal value of ten million roubles for 10% of its nominal value, that is one million roubles. The money was examined, numbers on the banknotes were recorded, and one million roubles was entrusted to the witness P. Two rooms, 1007 and 1008, were booked in the Sputnik hotel located at ... The sale was to take place at 7.30 p.m. on 24 July 2003. According to the approved legend, P. ... was in the car parked at the hotel. He then came up to the room where A. and K. were waiting; the note sat on the table. P. put the money onto the table; without counting the money, K. threw it into a bag and put it onto the table next to him. At this moment police officers entered the room and arrested K. A report on the examination of the crime scene was compiled which P. countersigned.”

12. The District Court further referred to written evidence which included K.’s arrest record, the decision to carry out a “controlled purchase”, the report on the “controlled purchase”, the reports on

examination of the money, the note and inspection of the crime scene, and the forensic expert's report indicating that the note had been a forgery.

13. The District Court also examined the transcripts of audio- and video-recordings and noted as follows:

“The report on examination of the Sony Protocol No. 5-60 videocassette, dated 2 September 2003, and the transcript of the conversation confirm the textual identity of the conversation which K. and A. had in the hotel room on 24 July 2003, with the previous transcript of 25 July 2003 (pp. 105-111 vol. 3).

The report of 4 September 2003 concerns the examination of the EMTEC E120 videocassette which was lawfully made available to the investigation; it confirms the factual contents of the audio- and video-recordings, from which it follows that it was the defendant Mr Ilyadi who had given the envelope to K. in the driver's seat of the Honda car. The court has verified this circumstance and, contrary to the position of the defence, the court considers that the videocassette clearly shows that the envelope had been given to K. by Mr Ilyadi (pp. 123-125 vol. 5).”

14. The District Court finally gave an overall assessment of evidence and established the defendants' guilt in the following manner:

“Assessing the testimonies by the witnesses Kr. and B., the court sees no reason to distrust them because they are concordant with the body of evidence presented by the prosecution and because they are mutually complementary and consistent. The court has not established any indication that those witnesses may have slandered the defendant [*sic*, in singular]. For the same reasons the court relied upon the statement by the witness P. which was read out in court. The court does not find any gross breaches by the investigation of the requirements of the Code of Criminal Procedure during the pre-trial inquiry which may have led to declaring the above evidence inadmissible.

Contrary to the arguments by the defence, the court considers that the above body of evidence proves that both the defendant K. and the defendant Mr Ilyadi have been involved into the crime. On the basis of the conversation that took place during the meeting between K. and the 'purchaser', the pre-trial statement by the witness P., the video-recording which was transcribed and examined in court and which showed that it had been Mr Ilyadi who had handed over the envelope to K., the court is firmly convinced, rather than merely supposes, that Mr Ilyadi's envelope had contained a forged promissory note which had been given on 24 July 2003 to K. near the Sputnik hotel. [The court also takes into account] the body of evidence in its entirety, including in particular, the conduct by the defendants which unambiguously showed that they feared arrest, and the fact that both K. and Mr Ilyadi were aware that the note was a forgery.”

15. On 10 June 2004 the applicant submitted a short statement of appeal to the registry of the Gagarinskiy District Court which indicated his intention to submit a detailed statement of appeal upon receipt of the judgment. According to the established Russian practice, statements of appeal must be filed with the registry of the first-instance court that gave judgment, which then would forward it to the appeal court.

16. On 2 August 2004 counsel for the applicant asked the head of the Personnel Department of the Moscow Police to confirm whether Captain P.

was currently or in the past listed in the staff records. By a letter of 11 August 2004, the head of the Personnel Department replied that “Captain P. [was] not listed in the records of the Moscow Police Directorate”.

17. On 26 August 2004 the applicant sent a detailed statement of appeal through the correspondence department of the remand centre to the registry of the Gagarinskiy District Court. He complained, in particular, that there were deficiencies in the evidentiary base:

“The investigation listed five witnesses for the prosecution. Two of them were the attesting witnesses who had been present during Mr K.’s arrest ... Three others were the police officers who had taken part in the controlled purchase of the forged promissory notes. Lieutenant-Colonel B. and Major Kr. appeared in court and testified that I had not been the target of the operational measures and that they had not previously known me or heard about me ...

Only the statement made by the third police officer, Captain P., indicates my indirect connection with the crime. Captain P. did not appear in court during the trial. This delayed the proceedings, because the prosecution insisted on having P. examined in court. A suspicion arose that Captain P. may never have existed, and it was confirmed by the research carried out by my advocate ... He dialled the phone number listed in the statement and made sure that he reached the correct office. However, he heard that there was no employee by the name of P. and never had been. We prepared two written inquiries for the director of the Economic Crimes Directorate, to which he gave evasive replies ... Only after we asked the head of the Personnel Department for clarification did we receive a direct and truthful reply: police officer P. does not actually exist ...”

The applicant asked the appeal court that his conviction be declared unlawful and quashed. He enclosed the replies his counsel had received from the Personnel Department of the Moscow Police.

18. By letter of 14 September 2004, the President of the Gagarinskiy District Court asked the applicant to resubmit his statement of appeal as the original one had been lost. The applicant did as requested.

19. On 25 October 2004 the Moscow City Court heard the appeal. The applicant was present before the appeal court and made oral submissions. According to him, of his written submissions, only the resubmitted short statement of appeal, but not the detailed one, was examined.

20. The City Court rejected the appeal in a summary fashion, finding that there was no reason to place the authenticity of the evidence in doubt and that there were no breaches of procedural norms. With regard to the witnesses, the City Court held as follows:

“The [District] court had no reason not to rely on the statements of the witnesses who were police officers, including witness P.; their statements were assessed in court and found to be consistent, mutually complementary and compatible with other materials in the file. There is no indication that anyone has a vested interest in the criminal prosecution of the persons convicted.”

B. Conditions of the applicant's detention

21. From 31 July 2003 to 3 December 2004 the applicant was held in remand centre no. IZ-77/2 in Moscow, popularly known as “Butyrka”.

22. After 18 August 2003 he was accommodated in cell no. 100. It measured 54.7 square metres and was equipped with twenty-two bunk beds. According to the Government, that cell housed, on average, twenty-one detainees. According to the applicant, the actual cell population was as high as thirty-five persons.

23. The Government produced the cover page of the register for verification of the number of detainees in remand centre no. 2 (*книга количественной проверки лиц, содержащихся в СИЗО-2*) and an extract from the register listing the applicant's personal details, as well as a number of certificates signed by the director of the remand centre in 2007.

II. RELEVANT DOMESTIC LAW

24. The Code of Criminal Procedure provides that an appeal court may quash or amend a conviction, in particular if it determines that the findings of the trial court are incompatible with the factual circumstances of the case (Articles 379 (1) and 380).

25. The judgment of the appeal court must contain, in particular, a short summary of the arguments contained in the statement of appeal and the reasons for the appeal court decision (Article 388).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

26. The applicant complained that the conditions of his detention in remand centre no. IZ-77/2 from August 2003 to December 2004 had been in breach of Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

A. Admissibility

27. Referring to the Court's findings in the case of *Shilbergs v. Russia* (no. 20075/03, 17 December 2009), the Government claimed that the applicant had not exhausted domestic remedies because he had not sought

compensation for the inappropriate conditions of his detention in civil proceedings.

28. As regards the Government's reliance on the *Shilbergs* case, the Court reiterates that the Russian courts in that case did not acknowledge a violation of Article 3 of the Convention, but rather found that some aspects of Mr Shilbergs' detention had fallen short of domestic legal requirements and that the amount of the award had been substantially reduced on account of the State's financial difficulties, to a level at which it became, in the Court's assessment, insufficient and manifestly unreasonable in the light of its case-law (see *Shilbergs*, §§ 69-79, cited above). The Government did not point to any other case-law which would have been capable of demonstrating that a civil claim was an effective domestic remedy for a complaint of inhuman or degrading conditions of detention. Accordingly, the Court dismisses the Government's objection as to non-exhaustion of domestic remedies.

29. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

30. The parties disagreed as to certain aspects of the applicant's conditions of detention in the remand centre. However, there is no need for the Court to establish the truthfulness of each and every allegation, since it finds a violation of Article 3 on the basis of the evidence that have been presented or is undisputed by the Government, for the following reasons.

31. The Government conceded that from 7 August 2003 to 3 December 2004 the floor space available to each detainee in the applicant's cell had been below the sanitary requirement of four square metres and that that situation had been in breach of Article 3 of the Convention. The Court observes that the Government only cited the average number of detainees in the cell, which implies that at times the actual number of detainees had been higher. This coincides with the applicant's submission that he had been obliged to share the cell with up to thirty-five individuals. As the Government only produced the cover page of the register and the page concerning the applicant alone, it is impossible to establish the exact number of detainees during the relevant period. Nevertheless, it is obvious that the cell was severely overcrowded and that detainees were afforded less than three square metres of floor space per person.

32. In this connection the Court reiterates that in many cases in which detained applicants had at their disposal less than three square metres of personal space, it has already found that the lack of personal space afforded to them was so extreme as to justify in itself a finding of a violation of

Article 3 of the Convention (see, among many others, *Pitalev v. Russia*, no. 34393/03, § 47, 30 July 2009; *Denisenko and Bogdanchikov v. Russia*, no. 3811/02, § 98, 12 February 2009; *Vlasov v. Russia*, no. 78146/01, § 81, 12 June 2008; *Kantirev v. Russia*, no. 37213/02, §§ 50-51, 21 June 2007; *Andrey Frolov v. Russia*, no. 205/02, §§ 47-49, 29 March 2007; *Labzov v. Russia*, no. 62208/00, § 44, 16 June 2005; and *Mayzit v. Russia*, no. 63378/00, § 40, 20 January 2005). The Court is also mindful of the fact that the cells in which the applicant was detained contained some furniture and fittings, such as bunk beds and the lavatory, which must have further reduced the floor area available to him. The Court finds that the applicant was detained in those cramped conditions for one year and almost five months.

33. Having regard to its case-law on the subject, the material submitted by the parties and the findings above, the Court notes that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Even though there is no indication that there was a positive intention to humiliate or debase the applicant, the Court finds that the fact that he was obliged to live, sleep and use the toilet in the same cell as so many other inmates was itself sufficient to cause distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, and to arouse in him feelings of anguish and inferiority capable of humiliating and debasing him.

34. The Court finds accordingly that there has been a violation of Article 3 of the Convention on account of the applicant's conditions of detention in remand centre IZ-77/2 in Moscow from August 2003 to December 2004, which it considers to have been inhuman and degrading within the meaning of this provision.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

35. The applicant complained under Article 6 § 2 of the Convention that the trial court had founded his conviction on a written statement by Captain P., who had never existed, and that it had also failed to forward his detailed statement of appeal for examination by the City Court. The Court considers that this complaint falls to be examined from the standpoint of the general fairness requirement guaranteed by Article 6 § 1. The relevant part of Article 6 reads as follows:

“1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

A. Admissibility

36. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other ground. It must therefore be declared admissible.

B. Merits

37. The Government submitted that the applicant and his counsel had not objected to the trial continuing in the absence of Captain P., or to his pre-trial deposition being read out. The pre-trial statement had specified Captain P.'s personal details, his rank and place of employment, and passport information. The claim that Captain P. did not actually exist had been effectively disproved by the testimony of Major Kr., who had stated that Captain P. had taken part in the operative inquiry, that of Lieutenant-Colonel B., who had confirmed Captain P.'s employment in the police, and the mention of Captain P. in the search record and in the statements by the attesting witnesses. The letter from the head of the Personnel Department, dated 11 August 2004, did not describe the nature of the inquiry or specify whether Captain P. was or was not listed in the records on the date of the letter or at the time of the applicant's arrest and trial. The Government finally submitted that the contents of the appeal judgment "convincingly demonstrated" that the applicant's detailed statement of appeal had been received and examined by the City Court.

38. The applicant maintained that his detailed statement of appeal had not been examined, because the appeal judgment had not addressed his specific submissions or given reasoned replies to the arguments raised in the appeal. He further submitted that he had entertained no doubts as to the existence of Captain P. until the last hearing on 3 July 2004. On that day his counsel had unsuccessfully attempted to reach Captain P. on the phone and then started written inquiries.

39. The Court reiterates that for the proceedings to be fair, as required by Article 6 § 1 of the Convention, the "tribunal" must conduct a proper examination of the submissions, arguments and evidence adduced by the parties, without prejudice to its assessment of whether they are relevant to its decision (see *Van Kück v. Germany*, no. 35968/97, §§ 47-48, ECHR 2003-VII, and *Kraska v. Switzerland*, judgment of 19 April 1993, Series A no. 254-B, § 30). Article 6 § 1 obliges courts to give reasons for their judgments, but this obligation cannot be understood as requiring a detailed answer to every argument. The question whether a court has failed to fulfil the obligation to state reasons, deriving from Article 6 of the Convention, can only be determined in the light of the circumstances of the case (see

Ruiz Torija v. Spain, judgment of 9 December 1994, Series A no. 303-A, § 29).

40. In the instant case the applicant stood trial on the charge of selling a forged promissory note to a certain Mr P., who subsequently turned out to be a police captain posing as a prospective purchaser. It follows from Captain P.'s pre-trial statement, as it was reproduced in the District Court's judgment, that he had taken part in making the decision on carrying out the controlled purchase of a forged promissory note and also mounted the police operation and played a major part in it.

41. It appears that the applicant did not have an opportunity to examine or to have examined Captain P. at any stage of the proceedings. During the investigation, the investigator took down Captain P.'s statement but did not arrange for a confrontation between him and the applicant. At the trial, Captain P. had been listed as a witness for the prosecution but never appeared in court. At the final hearing the prosecutor told the trial court that, according to the information from Captain P.'s superior, the witness had been sent away on a mission, which was accepted by the court as a valid reason for his absence.

42. Throughout a major part of the trial the applicant and his counsel had not entertained any doubts as to the identity of Captain P. and, accordingly, his credibility as a witness. The defence did not object to the case being heard in the absence of that witness. The prosecutor's insistence on obtaining Captain P.'s attendance prompted the applicant's counsel to place a call to his office phone number as it was listed in the written statement. Upon finding that the number was incorrect, in early June 2004 the attorney launched written inquiries. By the time of delivery of the District Court's judgment on 8 June 2004, the defence had not yet obtained any documents confirming or disproving the identity and police employment of Captain P. It was not until 11 August 2004 that the Moscow police human resources department replied that Captain P. was not their employee.

43. As by that time the first-instance conviction had already been issued, the only avenue remaining open to the applicant was to raise the issue of the credibility of the witness before the appeal court, which he did. In his extended statement of appeal the applicant submitted, among other matters, that the evidentiary basis was deficient because the only witness who could confirm his involvement in the transaction, Captain P., had not appeared at the trial and that his credibility was open to doubt, as counsel had not been able to check his identity or whether he was employed by Moscow police.

44. The applicant's submission relating to the credibility of this prosecution witness was made in writing and formulated in a sufficiently clear and precise manner. Furthermore, evidence in the form of letters from the human resources department was adduced to support it. The Moscow City Court, acting as the court of appeal, was bound, under the applicable procedural law (see paragraph 25 above), to review all the arguments

contained in the statement of appeal and give a reasoned decision on them. However, with regard to that important issue, the City Court's judgment only contains a laconic paragraph formulated in general terms. Although witness P. is mentioned therein by name, the applicant's arguments and evidence relating to the credibility of that witness are not referred to or examined in any detail.

45. The applicant suggested that his extended statement of appeal may not have been examined at all by the City Court because the District Court had omitted to forward it; the Government disputed that claim. The Court considers that this issue can be left open as it appears that the applicant's submission relating to the credibility of witness P. was indeed brought to the attention of the appeal court and called for a specific and explicit reply.

46. Owing to the absence of the hearing record and the brevity of the appeal judgment, it is impossible to ascertain whether the City Court neglected to deal with a part of the applicant's arguments contained in his statement of appeal or whether the City Court had actually reviewed the applicant's arguments and evidence in their entirety but had merely failed to mention it and state specific reasons for dismissing it (compare *Ruiz Torija*, cited above, § 30).

47. In the light of the above, the Court finds that the applicant's specific and relevant submission and evidence relating to credibility of the prosecution witness did not elicit a sufficiently specific and explicit reply in the domestic proceedings. That failing restricted the rights of the defence to an extent that was incompatible with the fair trial guarantee and there has, accordingly, been a violation of Article 6 § 1 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

48. The applicant also complained under Article 5 of the Convention that the decision to remand him in custody had not been justified. The Court notes that the detention order was issued on 26 July 2003, whereas the applicant lodged his application on 17 January 2005, that is more than six months later. It follows that this complaint has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

49. Lastly, the applicant complained under Article 6 that he had not been given sufficient time to read the case file before the trial, that his counsel had not been informed of one hearing and had not attended it, and that the trial court had refused to examine the investigator. However, in the light of all the material in its possession, and in so far as the matters complained of 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.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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.”

51. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints concerning the applicant's conditions of detention and the non-attendance of the witness for the prosecution admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 3 of the Convention on account of the applicant's conditions of detention in remand centre IZ-77/2 in Moscow from August 2003 to December 2004;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 5 May 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Dean Spielmann
President