



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

SECOND SECTION

CASE OF UŽUKAUSKAS v. LITHUANIA

(Application no. 16965/04)

JUDGMENT

STRASBOURG

6 July 2010

FINAL

06/10/2010

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

In the case of Užukauskas v. Lithuania,

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

Françoise Tulkens, *President*,

Ireneu Cabral Barreto,

Danutė Jočienė,

András Sajó,

Nona Tsotsoria,

Kristina Pardalos,

Guido Raimondi, *judges*,

and Stanley Naismith, *Deputy Section Registrar*,

Having deliberated in private on 15 June 2010,

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

PROCEDURE

1. The case originated in an application (no. 16965/04) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Lithuanian national, Robertas Užukauskas (“the applicant”), on 28 April 2004.

2. The applicant was represented by Mr R. Girdziušas, a lawyer practising in Kaunas. The Lithuanian Government (“the Government”) were represented by their Agent, Ms E. Baltutytė.

3. The applicant alleged that the proceedings for removing his name from an “operational records file” had been unfair in that the principles of fairness and equality of arms had not been respected. He invoked Article 6 § 1 of the Convention.

4. On 11 December 2006 the Court decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1972 and lives in Kaunas.

6. In 1999 the applicant was granted a licence to keep a firearm.

7. On 17 July 2002 the validity of the licence was extended.

8. On 15 November 2002 the applicant submitted a request for a licence to keep another type of firearm.

9. On 19 December 2002 police officials decided not to grant a new licence, given that on 13 December 2002 the applicant had been listed in an “operational records file” (*policijos operatyvinė įskaita*), that is, a database containing information gathered by law-enforcement authorities (see paragraphs 17-19 of the 'Relevant domestic law' below).

10. On 16 April 2003 the police wrote to the applicant informing him that his licence to keep a pistol and a hunting rifle had been revoked. The applicant was informed that, pursuant to Article 38 of the Law on the Control of Guns and Ammunition, he was to hand in these firearms to the authorities and would receive money for them.

11. The applicant instituted court proceedings challenging the entry of his name in the operational records file.

12. On 25 September 2003 the Kaunas Regional Administrative Court dismissed his action. The decision was based on classified material submitted by the police and analysed by the judges without it being disclosed to the applicant. The court concluded that the applicant's listing in the operational records file had been lawful and reasoned, in view of the information about the applicant held by the police.

13. The applicant appealed, complaining that he had had no access to the operational records file. He alleged that the court had not examined the classified evidence during the hearing, and that it had not assessed whether any parts of that information could have been disclosed to him.

14. On 29 October 2003 the Supreme Administrative Court upheld that decision. The court noted, *inter alia*, that the impugned evidence was classified as a State secret and, although reviewed by the court, could not be disclosed to the applicant.

15. The Government submitted that in July 2004, after the applicant had been granted a new firearms licence, his guns were returned to him.

II. RELEVANT DOMESTIC LAW AND PRACTICE

16. Article 21 of the Constitution provides that the dignity of a human being is to be protected by law. Article 22 thereof states that the private life of a human being is inviolable and that information concerning a person's private life may be collected only following a reasoned court decision and only in accordance with the law. The law and the courts are to protect everyone from any arbitrary or unlawful interference with his or her private life or from encroachment upon his or her honour and dignity. Article 23 of the Constitution provides that property is inviolable and that ownership rights are protected by law. Property may be taken only for the needs of society in accordance with the procedure established by law, and must be fairly compensated. Under Article 30 of the Constitution, a person whose

constitutional rights or freedoms have been violated has the right to apply to a court. Article 48 provides that each human being may freely choose a job or occupation.

17. Article 3 § 10 of the Law on Operational Activities (*Operatyvinės veiklos įstatymas*) describes the “operational records file” as a system of managing data on individuals, events and other targets obtained during operational activities. It is designed to provide information for law-enforcement authorities. Article 9 of the Law stipulates that an operational investigation is to be conducted when there is information that a serious crime is being planned or has been committed.

18. Article 17 § 1 (2) of the Law on the Control of Arms and Ammunition (*Ginklų ir šaudmenų kontrolės įstatymas*) provided at the material time that arms and ammunition could not be acquired or possessed by a person who did not have an impeccable reputation. According to Article 18 § 2 (5) of that Law, a person was not regarded as having an impeccable reputation if his or her name had been entered in an operational records file. Article 38 of the Law provided that, after a firearms licence had been revoked, the arms and ammunition were to be taken from the person concerned and sold through the Arms Fund (a State agency) or through other companies authorised to sell them.

19. Article 6 § 2 (4) of the Law on the Protection of Persons and Property (*Asmens ir turto saugos įstatymas*) provides that a person whose name is listed in an operational records file is not eligible to work as a security officer.

20. The relevant part of the Law on Administrative Procedure (*Administracinių bylų teisenos įstatymas*) provides as follows:

Article 57. Evidence

“1. Evidence in an administrative case is all factual data found admissible by the court hearing the case and based upon which the court finds ... that there are circumstances which justify the claims and rebuttals of the parties to the proceedings and other circumstances which are relevant to the fair disposal of the case, or that there are no such circumstances ...

3. As a rule, factual data which constitutes a State or official secret may not be used as evidence in an administrative case, until the data has been declassified in a manner prescribed by law.”

21. In the judgment of 4 September 2002 in case no. A10-786-02, the Supreme Administrative Court stated, in so far as relevant to the present case, that:

“as a rule, factual data which constitutes a State or official secret may not be used as evidence in an administrative case until it has been declassified (Article 57 § 3 of the Law on Administrative Procedure). Therefore, in the absence of other evidence, the [lower] court's reliance on solely written information provided by the State Security Department which was marked as secret had no legal basis”.

22. On 15 July 2007 the Constitutional Court adopted a ruling on the compatibility with the Constitution of Article 57 § 3 of the Law on Administrative Procedure, and Articles 10 § 4 and 11 of the Law on State Secrets. It ruled that no decision of a court could be based solely on information which constituted a State secret and which had not been disclosed to the parties to the case. In the ruling no. A⁸²²-326/2009 of 8 October 2009 the Supreme Administrative Court confirmed the above principles.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

23. The applicant complained that the proceedings before the administrative courts had been unfair in that the principle of equality of arms had not been respected. He invoked Article 6 § 1 of the Convention, which, in so far as is relevant, reads as follows:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal...”

A. Admissibility

1. The parties' submissions

(a) The Government

24. The Government argued that Article 6 § 1 of the Convention was not applicable to the proceedings at issue. They explained that records in operational files served only as tools, mainly for the prevention of crime and in certain situations to help investigate them. Operational records files contained information concerning events, circumstances and persons. Data on a particular person could be recorded in an operational file only in connection with investigative activities carried out in respect of other persons. The fact that certain operational activities had been carried out in respect of a certain person did not mean that that person was suspected of having committed a crime. Moreover, a record in an operational file could not be equated with the legal status of a suspect or official notification of an allegation that a person had committed a criminal offence. Operational information was to be considered only as certain preliminary information. Consequently, it had to be declassified if the authorities wanted to use it as

evidence in criminal proceedings. Relying on the above, the Government submitted that Article 6 § 1 of the Convention, under its criminal head, was not applicable to the applicant's case.

25. In the alternative, the Government argued that, contesting the lawfulness and reasonableness of listing the applicant's name in the operational records file under the administrative procedure, could not be considered a determination of his civil rights. The litigation at issue had concerned an administrative dispute, a conflict between the applicant and a public administrative body – the Police Commissariat. The applicant had challenged before the domestic courts the actions of State agents when carrying out one of the State's main functions – guaranteeing public security and safety – and in this particular connection the State institution had not been acting as a private party. The State had a broad margin of discretion over the exercise of the right to carry a gun. Moreover, an administrative decision to grant or withhold such a licence did not directly affect a person's property rights or legal interests. For the Government, the right to carry a gun was not to be considered as being equal to, for example, the right to carry out certain professional activities. Nor did it affect a person's possessions.

26. On this latter point, the Government submitted that it did not follow from Article 38 of the Law on the Control of Arms and Ammunition that the listing of a person's name in an operational records file and the subsequent possibility of his or her firearm being taken would be acts amounting to an interference with that person's property rights by the State. Once a licence to carry a gun had been revoked, the gun was to be temporarily kept by the police. The subsequent sale of the gun was to be for a reasonable price and the money received was to be given to the person concerned. As a result, the person would receive fair compensation and no determination of his or her civil rights would be at issue.

27. As to the particular situation of the applicant, the Government submitted that, after the applicant's licence to carry a weapon had been revoked, his guns had been kept by the police and had not been sold. In July 2004, after the applicant had been granted a new licence to carry a gun, his guns had been returned to him.

28. Relying on the above, the Government asserted that the applicant's complaint under Article 6 of the Convention was inadmissible *ratione materiae*. In the alternative, the Government submitted that the complaint was manifestly ill-founded.

(b) The applicant

29. The applicant argued that, even though the domestic proceedings had taken place in the administrative courts and it had been a dispute of an administrative nature, his civil rights had nevertheless been affected. After information about him had been placed in the operational records file on

13 December 2002, the police had decided to revoke his licence to keep and carry firearms. Pursuant to Article 38 of the Law on Arms and Ammunition Control, the State authorities had been obliged to take the applicant's guns away from him. It followed that his being listed in the operational records file was an act which had interfered with his property.

30. Alternatively, the applicant submitted that the notion of “criminal charge”, within the meaning of Article 6 § 1 of the Convention, was not to be interpreted narrowly. In particular, Article 9 of the Law on Operational Activities stipulated that an operational investigation was to be conducted when there was information that a serious crime was being planned or had been committed. Consequently, the Law gave the impression that the operational records file was connected with a suspicion that a person was, to some extent, implicated in a criminal activity. This impression was accentuated by the fact that firearms licences were to be revoked in respect of persons who had been the subject of operational investigations. The State thus showed distrust towards such people. Consequently, it was understandable that a person was entitled to know what factual data had given the impression that the individual had been implicated in criminal activities.

31. From the above, the applicant concluded that his complaint under Article 6 § 1 of the Convention fell within the Court's jurisdiction under both the civil and criminal heads of that provision.

2. The Court

(a) Applicability of Article 6 § 1

32. The Court will first consider whether Article 6 § 1 of the Convention applies under its civil head. In this connection the Court reiterates that, according to the principles laid down in its case-law (see, for instance, *Kerojärvi v. Finland*, 19 July 1995, § 32, Series A no. 322; *Gülmez v. Turkey*, no. 16330/02, § 28, 20 May 2008), it must first ascertain whether there was a dispute (“*contestation*”) over a “right” which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether they are also protected under the Convention. The dispute must be genuine and serious; it may relate not only to the existence of a right but also to its scope and the manner of its exercise; and the outcome of the proceedings must be directly decisive for the right in question.

33. As regards the first of the above-mentioned criteria, that the dispute must concern a right which arguably exists under national law, it should further be reiterated that Article 6 § 1 does not guarantee any particular content for those civil rights in the substantive law of the Contracting States: the Court may not create through the interpretation of Article 6 § 1 a substantive right which has no legal basis in the State concerned (see *Fayed v. the United Kingdom*, 21 September 1994, § 65, Series A no. 294-B).

34. Turning to the question of whether an arguable claim existed in the present case, the Court shares the Government's view that the State authorities enjoyed a wide margin of discretion in assessing whether the applicant was eligible for a firearms licence. Nonetheless, for the reasons outlined below, the Court finds that the revocation of that licence and the subsequent judicial proceedings to determine the lawfulness and reasonableness of the listing of his name in the operational records file, even though they had been conducted in accordance with the administrative procedure, had an effect upon the applicant's civil rights.

35. The Court recalls that the applicant's firearms licence was revoked because an operational records file, compiled by police officers and containing data on the applicant's alleged risk to society, had been opened. The applicant attempted, albeit unsuccessfully, to obtain that information from the police and to challenge its validity before the domestic courts. There can be little doubt that such information had an impact on the applicant's reputation, which merits protection under Lithuanian law (see paragraph 16 above) and falls within the scope of Article 8 of the Convention (see, for example, *Fayed v. the United Kingdom*, cited above, §§ 67-68; *Chauvy and Others v. France*, no. 64915/01, § 70, ECHR 2004-VI).

36. Likewise, the Court observes, with reference to its case-law, that when information about a person's life, including, *inter alia*, his criminal record, is systematically collected and stored in a file held by agents of the State, this information falls within the scope of "private life" for the purposes of Article 8 § 1 of the Convention (see *Rotaru v. Romania* [GC], no. 28341/95, §§ 43-44, ECHR 2000-V; *Amann v. Switzerland* [GC], no. 27798/95, §§ 65-67, ECHR 2000-II; *Leander v. Sweden*, 26 March 1987, § 48, Series A no. 116). The Court further notes that Article 22 of the Lithuanian Constitution guarantees the protection of a person's private life.

37. The Court cannot rule out the possibility, albeit theoretical, that the listing of the applicant's name in the operational records file could have resulted in restrictions on him entering certain private-sector professions or otherwise earning a living, thereby again affecting his private life (see *Sidabras and Džiautas v. Lithuania*, nos. 55480/00 and 59330/00, §§ 47-50, ECHR 2004-VIII). Indeed, as can be seen from Lithuanian legislation (see paragraph 19 above), certain professions, such as that of security officers, are not accessible to persons who have been listed in an operational records file. In this respect the Court notes Article 48 of the Lithuanian Constitution, which provides that everyone is free to choose a job or occupation.

38. Lastly, the Court notes the applicant's argument that the revocation of his firearms licence had meant that he was obliged to hand in the guns which he already owned to the State authorities for disposal, albeit in exchange for money (see paragraph 10 above). There can be little doubt that

this involved an interference with another civil right, guaranteed both by Article 23 of the Lithuanian Constitution and Article 1 of Protocol No. 1 to the Convention, that is to say, the right to the protection of property.

39. In the light of the above, the Court finds that Article 6 § 1 is applicable to the impugned proceedings under its civil head. Consequently, the Government's objection that the applicant's complaint is incompatible *ratione materiae* must be dismissed.

40. Having regard to its conclusion in the preceding paragraph, the Court does not find it necessary to determine whether the criminal limb of Article 6 § 1 of the Convention was applicable in the present case to the proceedings before the Lithuanian courts.

(b) Other observations

41. The Court finds 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

1. The parties' submissions

42. If the Court were to find Article 6 § 1 of the Convention applicable to the present case, the Government argued that the applicant's right to a fair hearing had been limited in a proportionate manner. Whilst conceding that, for a hearing to be fair, proceedings should be adversarial, the Government submitted that the guarantees of Article 6 § 1 were not of an absolute nature and that the entitlement to the disclosure of relevant evidence was not an absolute right. Consequently, it was permissible for the right to equality of arms to be restricted when certain guarantees were proportionately limited in order to achieve legitimate aims.

43. The Government submitted that courts at two levels of jurisdiction had reviewed the circumstances of the case and, on the basis of all the collected evidence, including the classified information, had adopted reasoned decisions, finding that the data on the applicant had been lawfully recorded in the operational file. The applicant had been able to submit evidence, present his arguments, make submissions and participate in the decision-making process, as far as this had been possible without revealing to him classified material, whose secrecy the courts had sought to maintain in the public interest. The Government stressed that the applicant had not complained that the Lithuanian courts had not been impartial or objective. As to the information in the operational records file, it had constituted a State secret. The interest in protecting State secrets was paramount.

Consequently, it had been legitimate not to disclose that information to the applicant in the course of the judicial proceedings. Nonetheless, the fair-balance principle had been maintained, given that non-disclosure had been chosen in order to protect the proper administration of justice and to guarantee existing public needs and the safety of Lithuanian society. The State had had the legitimate aim of maintaining the secrecy of police criminal investigation methods, whilst at the same time ensuring that the courts themselves had been able to assess all the relevant materials in the course of the judicial proceedings in order to adopt a lawful and reasoned decision. In sum, a fair balance had been maintained between the general interests of society and the applicant's fair trial guarantees, in that the principle of equality of arms had been compromised in proportion to the aims sought.

44. The applicant submitted that the restriction on his having access to the operational records file had not been proportionate. Whilst accepting that in certain circumstances it might be necessary in the public interest to exclude the party to the judicial proceedings and his representative from the disclosure procedure, he contended that the *ex parte* hearing before the judge (see paragraph 12 above) had violated Article 6 § 1 of the Convention because it had afforded no safeguards against judicial bias or error and no opportunity to put forward arguments on his behalf. The domestic courts had based their decisions on information which was a State secret; however, that information was the only proof against him. For the applicant, the groundlessness of the accusations against him, as contained in the operational records file, had been demonstrated even more so by the fact that, some time after the litigation, the Lithuanian authorities had deleted his name from the operational records file and had restored his right to keep a firearm.

2. The Court's assessment

45. The Court reiterates that, according to its case-law, the principle of equality of arms – one of the elements of the broader concept of a fair hearing – requires each party to be given a reasonable opportunity to present his or her case under conditions that do not place the litigant at a substantial disadvantage *vis-à-vis* the opponent (see, among many other authorities, *Kress v. France* [GC], no. 39594/98, § 72, ECHR 2001-VI). It also implies, in principle, the opportunity for the parties to have knowledge of and discuss all evidence adduced or observations filed with a view to influencing the court's decision (see *Fretté v. France*, no. 36515/97, § 47, ECHR 2002-I).

46. The Court nonetheless notes that the entitlement to disclosure of relevant evidence is not an absolute right. In any court proceedings there may be competing interests, such as national security or the need to protect witnesses at risk of reprisals or keep secret police methods of investigation

of crime, which must be weighed against the rights of the defence. In some cases it may be necessary to withhold certain evidence from the defence so as to preserve the fundamental rights of another individual or to safeguard an important public interest. However, only such measures restricting the rights of the defence which are strictly necessary are permissible under Article 6 § 1. Moreover, in order to ensure that a person receives a fair hearing, any difficulties caused to the defence by a limitation on its rights must be sufficiently counterbalanced by the procedures followed by the judicial authorities (see, *mutatis mutandis*, *Jasper v. the United Kingdom* [GC], no. 27052/95, § 52, 16 February 2000).

47. In cases where evidence has been withheld from the defence on public interest grounds, it is not the role of this Court to decide whether or not such non-disclosure was strictly necessary since, as a general rule, it is for the national courts to assess the evidence before them. In any event, in many cases, including the present, where the evidence in question has never been revealed, it would not be possible for the Court to attempt to weigh the public interest in non-disclosure against that of the accused in having sight of the material. It must therefore scrutinise the decision-making procedure to ensure that, as far as possible, the procedure complied with the requirements to provide adversarial proceedings and equality of arms and incorporated adequate safeguards to protect the interests of the accused (*ibid.*, § 53). Taking into account the circumstances of the present case, in which the applicant had contested being implicated in criminal activities, as a ground for listing his name in the operational records file, the Court considers that the above principles could also be applied to the proceedings before the Lithuanian administrative courts.

48. Turning to the instant case, the Court observes that the Government do not dispute the fact that the content of the operational records file, on the basis of which the courts found against the applicant, was never disclosed to him. The Court is not insensitive to the goals which the Lithuanian law-enforcement authorities pursued through their operational activities. Likewise, the Court shares the Government's view that documents which constitute State secrets may only be disclosed to persons who possess the appropriate authorisation. And yet the Court notes that Lithuanian law and judicial practice provide that such information may not be used as evidence in court against a person unless it has been declassified, and that it may not be the only evidence on which a court bases its decision (see paragraphs 20-22 above).

49. It appears that the undisclosed evidence in the present case related to an issue of fact decided by the Lithuanian courts. The applicant complained that his name had been listed in an operational records file without proper reason and asked the courts to consider whether the operational file on him should be discontinued. In order to conclude whether or not the applicant had indeed been implicated in any kind of criminal activity, it was necessary

for the judges to examine a number of factors, including the reason for the police operational activities and the nature and extent of the applicant's suspected participation in alleged crime. Had the defence been able to persuade the judges that the police had acted without good reason, the applicant's name would, in effect, have had to have been removed from the operational records file. The data in this file was, therefore, of decisive importance to the applicant's case (see, albeit with regard to criminal proceedings, *Lucà v. Italy*, no. 33354/96, § 40, ECHR 2001-II).

50. More importantly, as transpires from the decisions of the Lithuanian courts, the operational records file was the only evidence of the applicant's alleged danger to society. The Court notes that on numerous occasions the applicant asked for the information to be disclosed to him, even in part. However, the domestic authorities - the police and the courts - denied his requests. Whilst, before dismissing the applicant's case, the Lithuanian judges did examine, behind closed doors and in their chambers, the operational records file, they merely presented their conclusions to the applicant. It was not, therefore, possible for the applicant to have been apprised of the evidence against him or to have had the opportunity to respond to it, unlike the police who had effectively exercised such rights (see, *mutatis mutandis*, *Gulijev v. Lithuania*, no. 10425/03, § 44, 16 December 2008).

51. In conclusion, therefore, the Court finds that the decision-making procedure did not comply with the requirements of adversarial proceedings or equality of arms, and did not incorporate adequate safeguards to protect the interests of the applicant. It follows that there has been a violation of Article 6 § 1 in the present case.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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.”

A. Damage

53. Alleging that the decisions of the administrative courts had damaged his reputation, the applicant claimed 35,000 Lithuanian litai (LTL), approximately 10,135 euros (EUR), in respect of non-pecuniary damage.

54. The Government submitted that the applicant's claim was unsubstantiated and excessive.

55. The Court considers that, in view of the violation of Article 6 § 1, the applicant has suffered non-pecuniary damage which is not sufficiently compensated by the finding of a violation. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the sum of EUR 3,500 under this head.

B. Costs and expenses

56. The applicant claimed LTL 4,455 (approximately EUR 1,290) in respect of costs and expenses. He broke that sum down into LTL 300 for costs before the domestic courts, LTL 975 for translation costs and LTL 3,180 for lawyer's fees for their services before the Lithuanian courts and the Court. The applicant submitted invoices to the Court covering the entire amount.

57. The Government disputed the claim.

58. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court awards the applicant the claimed sum in full.

C. Default interest

59. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following sums, to be converted into the national currency of that State at the rate applicable on the date of settlement:
 - (i) EUR 3,500 (three thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage,

(ii) EUR 1,290 (one thousand two hundred and ninety euros), plus any tax that may be chargeable to the applicant, for costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 6 July 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith
Deputy Registrar

Françoise Tulkens
President