CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

CASE OF BABUSHKIN v. RUSSIA

(Application no. 67253/01)

JUDGMENT

STRASBOURG

18 October 2007

FINAL

18/01/2008

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Babushkin v. Russia,

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

Mr B.M. ZUPANČIČ, *President*,
Mr C. BÎRSAN,
Mr A. KOVLER,
Mrs E. FURA-SANDSTRÖM,
Mrs A. GYULUMYAN,
Mrs I. ZIEMELE,
Mrs I. BERRO-LEFÈVRE, *judges*,
and Mr S. QUESADA, *Section Registrar*,

Having deliberated in private on 27 September 2007,

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

PROCEDURE

1. The case originated in an application (no. 67253/01) 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 Nikolay Aleksandrovich Babushkin ("the applicant"), on 3 December 2000.

2. The applicant, who had been granted legal aid, was represented by Ms K. Moskalenko, a lawyer practising in Moscow and director of the Centre of Assistance to International Protection. The Russian Government ("the Government") were represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. On 18 April 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

4. The Government objected to the joint examination of the admissibility and merits of the application. Having examined the Government's objection, the Court dismissed it.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1959 and lives in Nizhniy Novgorod.

6. He is currently serving his sentence in correction facility UZ-62/12 in the village of Sherstki, located in the Tonshaevskiy District of the Nizhniy Novgorod Region.

7. The facts of the case, which are partly disputed between the parties, may be summarised as follows.

8. On 25 January 2000 the applicant was arrested on suspicion of aggravated robbery with violence.

9. From 11 February 2000 to 17 July 2000 he was detained in detention facility SIZO 32/1 (later renamed SIZO 52-1) in Nizhniy Novgorod.

A. Conditions of the applicant's detention

1. Number of inmates per cell

10. Throughout his detention in SIZO 32/1 the applicant was held consecutively in the following cells:

- Cell no. 9/70, measuring 37.2 sq. m, intended for 22 inmates;
- Cell no. 17/210, measuring 15.2 sq. m, intended for 8 inmates;
- Cell no. 2/12, measuring 39.5 sq. m, intended for 22 inmates;
- Cell no. 2/11, measuring 43.4 sq. m, intended for 24 inmates;
- Cell no. 4/29, measuring 39 sq. m, intended for 22 inmates;
- Cell no. 4/27, measuring 57.1 sq. m, intended for 34 inmates.

11. Notwithstanding the Court's specific enquiry, the Government did not indicate the number of inmates actually held in the above cells at the material time. However, they submitted that the applicant had at all times had an individual bunk bed and bedding.

12. The applicant, on the other hand, maintained that the number of inmates in the above cells varied between 50 and 70, and occasionally increased to 90 men. Due to the shortage of beds inmates had to take turns to sleep, which left them with no more than four hours of sleep daily. For the rest of the time they had to stand around in the cell because there was not enough room even to sit down. No separate bedding was provided for individual detainees and the applicant had to share bedding as well as the bed itself.

13. In support of his statement the applicant submitted a testimony by Mr O., who was detained in SIZO 32/1 in 2003 and who alleged that the cells were still severely overcrowded at the time of his detention.

2. Light

14. The windows in all the cells were permanently covered with dense-mesh metal blinds. In addition, there was a metal sheet fixed at a distance of about one metre outside each window. The surface area of the sheet exceeded that of the window, so that it screened off most of the daylight.

15. With regard to the artificial lighting in the cells, the Government submitted a copy of the inspection report of 20 January 2000 for SIZO 32/1. According to the report, the level of artificial light in all the cells, including all those in which the applicant was subsequently detained, was between 100 and 115 lux (the minimum regulatory standard being 100 lux).

16. According to the applicant, the cells were insufficiently lit, which led to a deterioration of the inmates' eyesight. He relied on written statements by Mr O. (see paragraph 13 above) and by Ms B., who was detained in SIZO 32/1 in April 2001. Both inmates also complained about the inadequate light in the cells.

3. Ventilation and temperature

17. According to the Government, the cells were equipped with an automatic ventilation system and central heating. They submitted a copy of the inspection report of 14 February 2000 for SIZO 32/1, which stated that the temperature in all the cells of the facility was between +19ºC and +23ºC, and that the humidity was between 47 and 56%. This, they claimed, lay within the standard range required by the health regulations.

18. The applicant disagreed with the Government and submitted that, while the cells might have been equipped with automatic ventilation, it had not worked. He referred to the statement of Mr O., according to which the ventilation system had not started functioning until the end of 2003. He maintained that the air in the cell was stale, a situation which was aggravated by the fact that most inmates smoked in the cell. He claimed that he had had no access to fresh air. He further submitted that the cell was permanently overheated and excessively humid due to overcrowding.

4. Sanitary facilities

19. The cells were each equipped with a wash basin and a WC at floor level. The Government, relying on the sanitary inspection report of 15 February 2000, submitted that all the cells had been disinfected and disinfested and that no insects or rodents had been discovered in SIZO 32/1. They also submitted that inmates were allowed to take a shower once a week in a specially equipped shower facility.

20. The applicant did not dispute that the cells were equipped with the above sanitary facilities, but he contended that sharing one wash basin and one WC with at least 50 other detainees meant that it was hard to gain access to them and that they were permanently filthy. Likewise, in the shower facility it was virtually impossible to get access to water in the fifteen minutes given to all inmates (at least 50) simultaneously, with only four shower heads functioning. He disagreed with the Government's assertion as to the absence of insects or rodents, claiming that the numbers of cockroaches, lice, bed bugs and other pests were so high that they could

not be controlled. He relied on the statements made by Mr. O., who submitted that in 2003 the cells were still heavily infested with cockroaches, lice and bed bugs.

5. Food and eating facilities

21. The Government submitted that the quality and nutritional value of the meals provided to inmates in SIZO 32/1 attained and even exceeded the minimum standards. They claimed that the relevant inspection had taken place on 13 March 2000 and that its conclusions had been satisfactory. With regard to the arrangements in the cell for taking meals, they submitted that each cell was furnished with a dining table and seats where the inmates could take meals.

22. The applicant, meanwhile, claimed that the catering in the facility was extremely poor and that inmates often made complaints about it. He further maintained that the rations were inadequate in view of his state of health. As to the furniture, he acknowledged that each cell had a table and benches, but said that they could seat no more than 8-10 persons. He therefore had to stand while eating his meals in order to eat while the food was still warm.

6. Tuberculosis

23. On the applicant's arrival in SIZO 32/1 he was interviewed about his state of health. He denied having tuberculosis. On 14 February 2000 he had a compulsory x-ray which revealed pathology in the lower lung fields.

24. On 16 February 2000 the applicant was diagnosed with bilateral lower lobe pneumonia and admitted to a prison medical ward. When questioned by the medical personnel he explained that he had been suffering from a cough, fever and headaches for two weeks.

25. In the next two weeks the applicant underwent intensive medical treatment, and his condition was monitored by means of a further x-ray on 25 February 2000 and a CT scan on 29 February 2000. On the basis of the latter the tuberculosis specialist diagnosed the applicant on 1 March 2000 with focal pneumonia in the upper lobe of the right lung.

7. Alleged ill-treatment in SIZO 32/1

26. The applicant alleged that the regular searches in the cells and personal searches of inmates were usually accompanied by violence on the part of prison officers, including beating, insults and setting dogs on inmates.

27. According to the Government, no violent practices had been recorded in SIZO 32/1 and no complaints of such practices had been made to the competent prosecutor's office, either by the applicant or by other detainees.

8. Complaints to the domestic authorities

28. According to the Government, no complaints were made by the applicant while he was in pre-trial detention. The applicant, on the other hand, submitted that he had filed numerous complaints about the harsh conditions of detention with the Chief Officer of SIZO 32/1, without success. He claimed that he had no copies of these complaints at his disposal because he had had no means of taking copies in the facility.

B. Court proceedings

29. On 28 April 2000 the Sovetskiy District Court of Nizhniy Novgorod began examining the applicant's case. According to the applicant, he requested the court to summon a defence witness, but his request was refused. On the same date the applicant was convicted of aggravated robbery with violence and sentenced to eleven years and six months' imprisonment and confiscation of property.

30. The applicant appealed. It is not clear whether the applicant raised before the appeal court the complaint regarding the district court's refusal to summon the defence witness.

31. On 4 July 2000 the Nizhegorodskiy Regional Court examined the appeal and upheld the first-instance judgment. The applicant was present at the hearing.

II. RELEVANT DOMESTIC LAW

32. Section 22 of the Detention of Suspects Act (Federal Law no. 103-FZ of 15 July 1995) provides that detainees should be given free of charge sufficient food to maintain them in good health in line with standards established by the Government of the Russian Federation. Section 23 provides that detainees should be held in conditions which satisfy health and hygiene requirements. They should be provided with an individual sleeping place and given bedding, tableware and toiletries. Each inmate should have no less than 4 square metres of personal space in his or her cell.

III. RELEVANT INTERNATIONAL DOCUMENTS

33. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the Russian Federation from 2 to 17 December 2001. The section of its report to the Russian Government (CPT/Inf (2003) 30) dealing with the conditions of detention in pre-trial detention centres and the complaints procedure read as follows:

"45. It should be stressed at the outset that the CPT was pleased to note the progress being made on an issue of great concern for the Russian penitentiary system: overcrowding.

When the CPT first visited the Russian Federation in November 1998, overcrowding was identified as the most important and urgent challenge facing the prison system. At the beginning of the 2001 visit, the delegation was informed that the remand prison population had decreased by 30,000 since 1 January 2000. An example of that trend was SIZO No 1 in Vladivostok, which had registered a 30% decrease in the remand prison population over a period of three years.

...

The CPT welcomes the measures taken in recent years by the Russian authorities to address the problem of overcrowding, including instructions issued by the Prosecutor General's Office, aimed at a more selective use of the preventive measure of remand in custody. Nevertheless, the information gathered by the Committee's delegation shows that much remains to be done. In particular, overcrowding is still rampant and regime activities are underdeveloped. In this respect, the CPT reiterates the recommendations made in its previous reports (cf. paragraphs 25 and 30 of the report on the 1998 visit, CPT (99) 26; paragraphs 48 and 50 of the report on the 1999 visit, CPT (2000) 7; paragraph 52 of the report on the 2000 visit, CPT (2001) 2).

...

125. As during previous visits, many prisoners expressed scepticism about the operation of the complaints procedure. In particular, the view was expressed that it was not possible to complain in a confidential manner to an outside authority. In fact, all complaints, regardless of the addressee, were registered by staff in a special book which also contained references to the nature of the complaint. At Colony No 8, the supervising prosecutor indicated that, during his inspections, he was usually accompanied by senior staff members and prisoners would normally not request to meet him in private 'because they know that all complaints usually pass through the colony's administration'.

In the light of the above, the CPT reiterates its recommendation that the Russian authorities review the application of complaints procedures, with a view to ensuring that they are operating effectively. If necessary, the existing arrangements should be modified in order to guarantee that prisoners can make complaints to outside bodies on a truly confidential basis."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF THE APPLICANT'S CONDITIONS OF DETENTION

34. The applicant complained that his detention in SIZO 32/1 in appalling conditions was 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. Submissions by the parties

35. The Government argued that the applicant had not exhausted the domestic remedies available to him. Referring to the information submitted by the Prosecutor General's Office, they pointed out that he had not complained about the conditions of his detention to the Nizhniy Novgorod Prosecutor's Office, or to the department of the Prosecutor General's Office responsible for supervising penitentiary institutions. The Government further commented on the conditions of the applicant's detention, providing the information set out in the Facts (section I-A above). In particular, they submitted that the applicant had been detained in satisfactory sanitary conditions which corresponded to the regulatory norms and were enforced through regular inspections and maintenance.

36. The applicant claimed that he had made numerous oral and written complaints to the facility authorities regarding various aspects of the conditions in the facility. However, these complaints were not followed up and it was systematically implied to the inmates that persisting in their complaints would only complicate their life further. For that reason he had felt discouraged from lodging complaints with the prosecutor's office. He contested the Government's assertion that the conditions in the facility complied with the standard requirements, with particular reference to the overcrowding of the cells, which were always filled to two or three times their capacity. He also alleged that overcrowding made the use of the sanitary facilities in the cells and of the communal showers difficult and affected the air quality, which was in any event extremely poor owing to the inadequate ventilation and the presence of large numbers of smokers in the cells. He further alleged that the poor light in the cells, the excessively high indoor temperature, the fact that the cells were heavily infested with insects, the poor quality of the food and the lack of places to sit while eating were aggravating factors.

B. The Court's assessment

1. Admissibility

37. Concerning the Government's objection as to the non-exhaustion of domestic remedies, the Court observes that the applicant did not lodge separate complaints with the prosecutor's office. However, it appears that he had in any event complained to the facility authorities, who must therefore have been aware of the situation in the facility. Moreover, the Government failed to demonstrate what redress could have been afforded to the applicant by the prosecutor's office, bearing in mind that the problems arising from the conditions of his detention were apparently of a structural nature and did not concern his personal situation alone (see *Moiseyev v. Russia* (dec.), no. 62936/00, 9 December 2004; *Kalashnikov v. Russia* (dec.), no. 47095/99, 18 September 2001; *Mamedova v. Russia*, no. 7064/05, § 57, 1 June 2006; and, most recently, *Benedictov v. Russia*, no. 106/02, 10 May 2007). The Government have failed to submit evidence as to the existence of any domestic remedy by which the applicant could have complained about the general conditions of his detention, in particular with regard to the structural problem of overcrowding in Russian detention facilities, or demonstrating that the remedies available to him were effective, that is to say, that they could have prevented violations from occurring or continuing, or that they could have afforded the applicant appropriate redress (see, to the same effect, *Melnik v. Ukraine*, no. 72286/01, §§ 70-71, 28 March 2006; *Dvoynykh v. Ukraine*, no. 72277/01, § 72, 12 October 2006; and *Ostrovar v. Moldova*, no. 35207/03, § 112, 13 September 2005).

38. Accordingly, the Court dismisses the Government's objection as to non-exhaustion of domestic remedies.

39. The Court further notes that the applicant's complaints concerning the conditions of his detention are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and that they are not inadmissible on any other grounds. They must therefore be declared admissible.

2. Merits

40. The Court observes that the parties disagreed as to the specific conditions of the applicant's detention. However, there is no need for the Court to establish the truthfulness of each and every allegation, since it considers that those facts that are not in dispute give it sufficient grounds to make substantive conclusions on whether the conditions of the applicant's detention amounted to treatment contrary to Article 3 of the Convention.

41. The main characteristic which the parties did agree upon is the size of the cells. The cells in which the applicant was held were designed to afford inmates between 1.6 and 1.9 sq. m of personal space. However, the

applicant claimed that the cell population greatly exceeded the capacity for which the cells were designed; the Government declined to indicate the exact number of inmates actually held in these cells. However, they maintained that the applicant was provided with an individual bunk bed and bedding.

42. In this connection, the Court observes that Convention proceedings, such as the present application, do not in all cases lend themselves to a rigorous application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation), because in certain instances the respondent Government alone have access to information capable of corroborating or refuting allegations. A failure on a Government's part to submit such information without a satisfactory explanation may give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations (see *Ahmet Özkan and Others v. Turkey*, no. 21689/93, § 426, 6 April 2004).

43. Having regard to the abovementioned principles, together with the fact that the Government did not offer any explanation for their failure to submit information as to the number of inmates in the different cells, the Court will examine the issue concerning the number of inmates in the cells on the basis of the applicant's submissions.

44. According to the applicant, the cells were constantly filled to twice their capacity or even more, resulting in a situation where each inmate had less than 1.0 sq. m of personal space and occasionally even less than 0.5 sq. m. Consequently, the detainees, including the applicant, had to share the sleeping facilities, taking turns to rest, and had to stand around in the cell for the rest of the time. The overcrowding also meant that the only wash basin and the only toilet in the cell were used by at least twice as many inmates as they were intended for. Accordingly, access to them was quite limited and maintaining hygiene in the cells was scarcely possible. It also appears that, when it came to using the communal showering facilities, no allowance was made for the excessive number of detainees or for the broken equipment; this further contributed to the poor standard of hygiene. Likewise, no arrangements were made to provide the cells with additional furniture for the increased number of detainees, which meant that inmates did not have sufficient space for taking their meals, reading or writing.

45. The Court reiterates that irrespective of the reasons for the overcrowding, it is incumbent on the respondent Government to organise its penitentiary system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties (see *Mamedova*, cited above, § 63, and *Benedictov v. Russia*, cited above, § 37).

46. The Court has frequently found a violation of Article 3 of the Convention on account of lack of personal space afforded to detainees (see *Khudoyorov v. Russia*, no. 6847/02, §§ 104 et seq., ECHR 2005-... (extracts); *Labzov v. Russia*, no. 62208/00, §§ 44 et seq., 16 June 2005;

Novoselov v. Russia, no. 66460/01, §§ 41 et seq., 2 June 2005; *Mayzit v. Russia*, no. 63378/00, §§ 39 et seq., 20 January 2005; *Kalashnikov v. Russia*, no. 47095/99, §§ 97 et seq., ECHR 2002-VI; and *Peers v. Greece*, no. 28524/95, §§ 69 et seq., ECHR 2001-III).

47. Having regard to its case-law on the subject and the material submitted by the parties, 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. Although in the present case there is no proof 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 sanitary and other facilities in the same cell as so many other inmates for over five months in a severely restricted space, 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 fear, anguish and inferiority capable of humiliating and debasing him.

48. Furthermore, the Government admitted that at the material time the cell windows had been covered with metal shutters which blocked access to fresh air and natural light. Hence the applicant's situation was aggravated by the lack of natural light in the cell.

49. Thus, for over five months the applicant was confined to an extremely congested cell, with limited access to sanitary facilities, poor levels of hygiene and inadequate levels of daylight.

50. It follows that, while in the present case it cannot be established "beyond reasonable doubt" that the ventilation, the heating, the quality of the food and the pest control in the facility were unacceptable from the standpoint of Article 3, the foregoing considerations (see paragraphs 44, 48 and 49 above) are sufficient to enable the Court to conclude that the applicant's conditions of detention went beyond the threshold tolerated by Article 3 of the Convention.

51. There has therefore been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in the SIZO 32/1 facility.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF THE ALLEGED ILL-TREATMENT OF THE APPLICANT AND HIS CONTRACTING TUBERCULOSIS WHILE IN DETENTION

52. The applicant complained of a violation of Article 3 of the Convention, claiming to have contracted tuberculosis in the detention facility and to have been subjected to ill-treatment by prison officers conducting cell searches.

A. Submissions by the parties

53. The Government maintained that the applicant had contracted tuberculosis long before his detention. Relying on the medical reports, they claimed that the symptoms he had displayed as of 1 March 2000 were typical of tuberculosis that had been progressing for one or two months. Accordingly, the applicant must have contracted tuberculosis at least one month before his arrest. With regard to the allegations of ill-treatment, they contested them as entirely unsubstantiated. They contended that no complaints to that effect had been made by the applicant or other inmates of SIZO 32/1 at any time.

54. The applicant maintained his submissions as to the alleged ill-treatment but made no additional comments as to his allegedly having contracted tuberculosis.

B. The Court's assessment

55. The Court notes that the applicant's allegations of ill-treatment by detention facility officers during searches are not corroborated by any evidence capable of satisfying the standard of proof "beyond reasonable doubt". In particular, the applicant omitted to provide any description of specific occurrences of the alleged ill-treatment; he failed to give even approximate dates of such occurrences or to indicate their frequency or the number and identity of the participants. At the material time the applicant did not file any complaint on this subject either with the prison authorities or with the prosecutor's office. In the absence of any reliable information from the applicant, it cannot be said that his allegation of ill-treatment is made out.

56. As regards the allegation that the applicant contracted tuberculosis in the detention facility, the Court reiterates that this fact in itself does not imply a violation of Article 3, given, in particular, the fact that the applicant received treatment (see *Alver v. Estonia*, no. 64812/01, § 54, 8 November 2005, and, *mutatis mutandis*, *Khokhlich v. Ukraine*, no. 41707/98, 29 April 2003). Furthermore, the Court takes note of the medical certificates submitted by the Government which disclose that the applicant was diagnosed with what appeared to be pneumonia within three days of his placement in SIZO 32/1. About three weeks later advanced symptoms of tuberculosis were discovered during the CT scan. It follows that the disease began to manifest itself in the early part of the applicant's detention, making it more than likely that he had already been infected at the time of arrest. The Court therefore accepts the Government's argument that there are no grounds for holding the authorities responsible for the fact that the applicant developed tuberculosis while in the detention facility.

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

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

58. Lastly, the applicant complained under Article 6 § 3 (d) of the Convention that the court of first instance had refused to summon a witness on his behalf.

59. Having regard to all the materials in its possession, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or the Protocols thereto. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

60. 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."

61. The applicant did not submit a claim for just satisfaction either in respect of pecuniary or non-pecuniary damage, or in respect of the costs and expenses.

62. In such circumstances, the Court would usually make no award. In the present case, however, the Court has found a violation of the applicant's right not to be subjected to degrading treatment. Since this right is of absolute character, the Court finds it equitable, in the particular circumstances of this case, to award the applicant 2,500 euros (EUR) by way of non-pecuniary damage (see *Mayzit v. Russia*, cited above, § 88, 20 January 2005), plus any tax that may be chargeable.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint under Article 3 concerning the conditions of the applicant's detention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 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, EUR 2,500 (two thousand five hundred euros) in respect of non-pecuniary damage, plus any tax that may be chargeable, to be converted into Russian roubles at the rate applicable at the date of settlement;

(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;

Done in English, and notified in writing on 18 October 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago QUESADA
Registrar

Boštjan M. ZUPANČIČ
President