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## THE SKRIPAL CASE GOES TO COURT FOR THE FIRST TIME – NEW UNCERTAINTIES FOR THE BRITISH AND RUSSIAN GOVERNMENTS

Posted By *Editor* On March 23, 2018 @ 2:45 am In Skripal,UK-Russia | [No Comments](#)

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[1]

**By John Helmer, Moscow**

British High Court Justice David Williams has issued the first court adjudication of evidence presented by the British Government of what happened to Sergei Skripal and Yulia Skripal when they succumbed to poisoning in Salisbury on March 4. Following three days of closed-door hearings this week in London, the judge issued a ruling for publication yesterday.

This allows the commencement of a process of evidence-gathering and testing by the Organization for the Prohibition of Chemical Weapons (OPCW) under international treaty procedures and rules for the admissibility of evidence. The new court-ordered safeguards respond to the criticism issued in an official aide-memoire from the Russian Foreign Ministry on [March 21](#) <sup>[2]</sup>. In that document, the Russian Government criticized the British Government for failing to secure “the chain of custody [of blood sample and poison evidence] up to all the OPCW requirements when evidence was collected”.

The process ordered by Justice Williams yesterday will not only assure the independence of OPCW evidence-gathering. By DNA testing of the fresh blood samples to be taken by the OPCW and matched against the original blood samples taken by British investigators to the Porton Down Defence Science and Technology Laboratory, Russian suspicion of evidence tampering will be addressed.

In a dramatic disclosure defying explanation, Williams has now revealed that lawyers representing the Skripals and witnesses from the Salisbury Hospital and the British Government told the court there has been no approach from any Russian family member, any Russian government agency, or a lawyer acting for them to seek access to the Skripals or their medical records.

According to the hospital witness, “the hospital has not been approached by anyone known to the patients to enquire of their welfare. The hospital know little about either patient or what they might have wished. Independent Mental Capacity Advocates have been appointed by the Trust to assist with best interests decisions on clinical matters.”

Representing the Skripals, Vikram Sachdeva QC told the judge “that in this case at present it did not appear practicable or appropriate to seek the views of others who might be interested in the welfare of Mr Skripal (his mother perhaps) or Ms Skripal (perhaps a fiancé).”

Justice Williams <sup>[3]</sup>, 53, was a barrister and Queen’s Counsel (QC) specializing in family law and the protection of children, until his appointment to the family division of the High Court, and its special Court of Protection last October. This court hears applications relating to individuals who, the court website explains <sup>[4]</sup>, “can’t make decisions at the time they need to be made (they ‘lack mental capacity’).”

The hospital’s testimony appears to contradict the declaration from the Foreign Ministry in Moscow that “the United Kingdom is ... still denying, without any explanation, Russian officials’ consular access to Yulia Skripal envisaged by the 1963 Vienna Convention on Consular Relations. For more than two weeks now, we have not been able to credibly ascertain what happened to our citizen and what condition she is actually in.”



[5]

Left: Justice David Williams; right, Vikram Sachdeva QC.

The Skripal court case was initiated by lawyers acting for the Skripals, the Salisbury hospital and the British Government through the Secretary of State for the Home Department; they were acting in concert. The Russian Government was not consulted or informed in advance. The judge ruled that “the Russian consular authorities will be made aware of these proceedings because [after] this judgment will be published”. Read the 18-page judgement here <sup>[6]</sup>.

Five witnesses appeared in court to give evidence. They included a doctor treating the Skripals, as well as Porton Down scientists who analysed blood samples from the Skripals to identify the

poison; together with officials from the Home Office and the Foreign Office. No police investigator appeared. Documentary evidence was also presented, containing "sensitive material including material deriving from the OPCW". Hearings were held on March 20, 21, and 22 and Williams issued his judgement at the end of the third day.

COURT OF PROTECTION

Case No: 13228376 & 13228382

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 22/03/2018

Before :

MR JUSTICE WILLIAMS

Between :

The Secretary of State for the Home Department	<u>Applicant</u>
- and -	
Sergei Skripal	<u>First</u>
(by his Litigation Friend the Official Solicitor)	<u>Respondent</u>
-and-	
Salisbury NHS Foundation Trust	<u>Second</u>
	<u>Respondent</u>
The Secretary of State for the Home Department	<u>Applicant</u>
-and-	
Yulia Skripal	<u>First</u>
(by her Litigation Friend the Official Solicitor)	<u>Respondent</u>
-and-	
Salisbury NHS Foundation Trust	<u>Second</u>
	<u>Respondent</u>

[7]

The judge summarized the evidence of a witness he identified as a "Porton Down Chemical and Biological Analyst". This source testified that "blood samples from Sergei Skripal and Yulia Skripal were analysed and the findings indicated exposure to a nerve agent or related compound. The samples tested positive for the presence of a Novichok class nerve agent or closely related agent." No source for the nerve agent was reported by the judge. No Russian culpability was hinted in the judgement. For allegations of Russian manufacture and Kremlin culpability in the nerve agent attack by Prime Minister Theresa May and Foreign Secretary Boris Johnson, read [this](#) [8].

After ruling that the Skripals lack the capacity to give their consent for fresh blood testing and for the disclosure of their medical records to the OPCW, Williams concluded "there may be some potential medical benefit in the tests being conducted by the OPCW in that they may identify some matter which sheds further light on the nature of the agent involved and thus the treatment that might be administered. I understand that the Secretary of State reposes complete confidence in the results of the tests carried out by Porton Down but I believe both that Mr Skripal and Ms Skripal would wish for the further analysis (and so s.4(6)(c) would be engaged) but that also objectively there is benefit in the expertise of the OPCW also being brought to bear

even if the possibility of them uncovering something useful from a medical perspective may be slight.”

“Those matters therefore support the conclusion that it is in the best interests of Mr Skripal and Ms Skripal to have further blood samples taken and for their medical records to be disclosed.”

Williams also acknowledged that the OPCW might come to a different conclusion from the British Government. Accordingly, he said it was in the best interests of the Skripals that the blood sampling, DNA matching, and opening of the medical records should be allowed. “I am satisfied that an inquiry such as the OPCW will conduct which might verify Porton Down’s conclusion, might elaborate or clarify them or might reach a different conclusion is something they [the Skripals] would wish be conducted and they would want to assist in that by providing samples.”



[9]

OPCW headquarters in The Hague. The organization’s website can be opened [here](#) <sup>[10]</sup>.

The Skripals, the judge added, “would be likely to want to support the work of the international body set up by international law knowing that its processes are unimpeachable, it is entirely independent, that the results of its enquiry would potentially be beneficial to the criminal investigation, confirming the nature of the attack and the substance used; assistance in bringing to justice those responsible; identifying those who carried out the attack. They would want to support the UK Government in taking steps on the international plane to hold those responsible to account.”

The absence of all Russian participation in this week’s London proceeding was ignored by the judge. Nor did he attempt to explain it in his ruling. “Given the absence of any contact having been made with the NHS [National Health Service] Trust by any family member, the absence of any evidence of any family in the UK and the limited evidence as to the possible existence of family members in Russia I accept that it is neither practicable nor appropriate in the special context of this case to consult with any relatives of Mr Skripal or Ms Skripal who might fall into the category identified in s.4(7)(b) of the Act.”

This reference to the statute can be read [here](#) <sup>[11]</sup>. Section 4(7)(b) requires the judge deciding the best interests of an incapacitated person to take into account the views of “anyone engaged

in caring for the person or interested in his welfare.” Williams claimed this section applies to “relatives”. The statute doesn’t say so.

The Russian Foreign Ministry and the Russian Embassy in London say they qualify. The Russians also say that for two weeks following the March 4 attack on the Skripals – that’s more than two weeks before Williams opened his first court hearing – they made this explicit to the Home Office. There is no sign the Russian Embassy engaged British lawyers to surmount the Home Office obstacles by presenting their case in court. Russian intelligence agents in London appear not to have known about the Court of Protection proceeding.

Sachdeva was asked this morning if he was aware of efforts by other London lawyers to represent the interests of the Skripals and the Russian Government; for details of the Habeas Corpus procedure, read [this](#) <sup>[12]</sup>.

Sachdeva was also asked to explain the apparent contradiction between what he claimed in court and the statement by the Russian Foreign Ministry in Moscow: “the United Kingdom is ... still denying, without any explanation, Russian officials’ consular access to Yulia Skripal envisaged by the 1963 Vienna Convention on Consular Relations. For more than two weeks now, we have not been able to credibly ascertain what happened to our citizen and what condition she is actually in.”

Sachdeva refused telephone and email requests to reply.

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[1] Image: <https://johnhelmer.net/wp-content/webpc-passthru.php?src=http://johnhelmer.net/wp-content/uploads/2018/03/2-1.png&nocache=1>

[2] March 21:

[http://www.mid.ru/en/foreign\\_policy/news/-/asset\\_publisher/ckNonkJE02Bw/content/id/3134591](http://www.mid.ru/en/foreign_policy/news/-/asset_publisher/ckNonkJE02Bw/content/id/3134591)

[3] Justice Williams: <http://www.familylawweek.co.uk/site.aspx?i=ed180105>

[4] explains: <https://www.gov.uk/courts-tribunals/court-of-protection>

[5] Image: <https://johnhelmer.net/wp-content/webpc-passthru.php?src=http://johnhelmer.net/wp-content/uploads/2018/03/3-3.png&nocache=1>

[6] here: <https://www.judiciary.gov.uk/wp-content/uploads/2018/03/sshd-v-skripal-and-another-20180322.pdf>

[7] Image: <https://johnhelmer.net/wp-content/webpc-passthru.php?src=http://johnhelmer.net/wp-content/uploads/2018/03/5-2.png&nocache=1>

[8] this: <http://johnhelmer.net/?p=17631>

[9] Image: <https://johnhelmer.net/wp-content/webpc-passthru.php?src=http://johnhelmer.net/wp-content/uploads/2018/03/6-2.png&nocache=1>

[10] here: **<https://www.opcw.org/about-opcw/>**

[11] here:

**[http://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga\\_20050009\\_en.pdf](http://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf)**

[12] this: **<http://johnhelmer.net/?p=17622>**