



**OPCW**

**Executive Council**

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ENGLISH and RUSSIAN only

**RUSSIAN FEDERATION**

**REQUEST FOR CIRCULATION OF A DOCUMENT  
AT THE EIGHTY-NINTH SESSION OF THE EXECUTIVE COUNCIL**

The Permanent Representation of the Russian Federation to the Organisation for the Prohibition of Chemical Weapons (OPCW) has requested the Technical Secretariat of the OPCW to circulate the attached position paper as a national document of the Eighty-Ninth Session of the Executive Council.

Attachment: Position Paper



## **Attachment**

### **RUSSIAN FEDERATION**

Just a few days after the incident in Salisbury, and before the completion of Scotland Yard's national investigation into that incident (which is still on-going), accusations were made against the Russian Federation and its leadership by Great Britain—without any evidence.

London has flagrantly ignored the requirements set out in paragraph 2 of Article IX of the Chemical Weapons Convention (hereinafter “the Convention”), which states that: “[...] States Parties should, whenever possible, first make every effort to clarify and resolve, through exchange of information and consultations among themselves, any matter which may cause doubt about the compliance with this Convention, or which gives rise to concerns about a related matter which may be considered ambiguous.”

Instead, the British—referring to subparagraph 38(e) of Article VIII of the Convention—turned to the Technical Secretariat of the OPCW with a request to conduct an “independent verification” of their own conclusions on what took place in Salisbury. At the same time, the subparagraph that is referenced speaks exclusively of providing technical assistance to States within the framework of carrying out “regular” obligations under the Convention—first and foremost concerning declarations, the destruction of chemical weapons, and control over other toxic chemicals. The practice of applying this provision confirms that technical assistance primarily means aid to States that are facing a lack of qualified staff, equipment, or technology in order to fulfil its objectives and tasks under the Convention.

As a result, subparagraph 38(e) of Article VIII does not assign to the OPCW Technical Secretariat any mandate to conduct an independent investigation, formulate its own conclusions, or to conduct an “independent verification” of the results of an investigation that was conducted by any State.

London's actions contradict not only the Convention, but important international obligations in other fields, such as so-called diplomatic and consular law, cooperation in the fight against crime, and the protection of human rights. Great Britain has essentially removed “the Skripal affair” from the foundation of international law, yet continues to invoke international law in its accusations against Russia.

Further, the ruling of the London Court of Protection of 22 March 2018, which authorised OPCW experts to collect blood samples from Sergei Skripal and his daughter Yulia without their express consent in order to conduct lab tests for the presence of a nerve agent and DNA analysis does not stand up to scrutiny from a legal point of view. The Court declined to keep consular officials informed of the upcoming investigation into the incident and did not invite them to take part in the investigation; it did not allow for the possibility of providing legal assistance or a consular officer as a legal representative of Russian citizens in the proceedings, thus violating the provisions of the Vienna Convention on Consular Relations of 1963. Relatives were also not permitted (they were simply denied entry visas to Great Britain).

According to subparagraph (a) of Article 36 of the Vienna Convention: “consular officers shall be free to communicate with nationals of the sending State and to have access to them.” According to subparagraph (b) of Article 37 of the Vienna Convention: “If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty: [...] to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State.”

The need to comply with the aforementioned provisions of the Vienna Convention when investigating an incident in the field of family rights involving foreign citizens, including notifying consular officials and allowing them to be present at court hearings, is fully upheld by the judicial practices of Great Britain.

That notwithstanding, the London District Court, having supported the position of the “legal guardian” assigned to the Skripals by the British authorities, unexpectedly came to the conclusion that “British law does not stipulate any obligation to provide notification” since “the Vienna Convention is implemented by Section 1 of the Law on Consular Relations of 1968, which does not incorporate Article 37.”

This position comes into direct contradiction with Great Britain’s international legal obligations. According to Article 27 of the Vienna Convention on the Law of Treaties of 1969: “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”

The London District Court, just like the authorities of Great Britain in general, also ignored the bilateral Consular Convention between the USSR and the United Kingdom of Great Britain and Northern Ireland, dated 2 December 1965, which for Russian-British relations takes precedence over the Vienna Convention of 1963.

Article 35 of the 1965 Convention states that: “A consular officer shall be entitled to propose to a court or other competent authority of the receiving State the names of appropriate persons to act as guardians or trustees in respect of a national of the sending State [...].” According to Article 36 of this Convention: “A consular officer shall be entitled within the consular district to communicate with, interview and advise a national of the sending State and may render him every assistance including, where necessary, arranging for aid and advice in legal matters.”

Nevertheless, the staff of our Embassy in London were not provided consular access to Sergei Skripal or his daughter Yulia. It stands to bear in mind that in line with Article 30 of the 1965 Convention: “the term “national” shall, for the purposes of this Part, mean any person whom the sending State recognises as its national [...].” As a result, the fact that Mr Skripal held citizenship in Great Britain in addition to Russian citizenship does not serve as grounds to deny consular access.

The reference to the alleged denial of diplomatic protection and consular aid to Russian citizens is untenable for several reasons. First, taking these types of measures, including consular access, is the prerogative of a State; the Russian-British Consular Convention of 1965 does not require that a request be made by the citizen himself. Second, as per the statement by the British side, Mr Skripal, in a state of unconsciousness, cannot express his

opinion on this matter and the conditions under which the statement by Ms Skripal was made has cast doubt upon the voluntary nature thereof.

The Russian Federation has not only expressed its readiness to provide assistance to the British investigation multiple times, it has also launched its own investigation into the incident. However, Great Britain has not carried out the relevant requests by the Prosecutor General of Russia regarding legal aid, in spite of its obligations under the European Convention on Mutual Assistance in Criminal Matters, dated 20 April 1959.

The circumstances of the continued detention of Russian citizens under guard and without any contact with the outside world, save for singular instances of written statements or telephone calls under strict control, remain a mystery to the Russian Federation.

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