CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

CASE OF EASTAWAY v. THE UNITED KINGDOM

(Application no. 74976/01)

JUDGMENT

STRASBOURG

20 July 2004

FINAL

20/10/2004

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 Eastaway v. the United Kingdom,

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

Mr M. PELLONPÄÄ, *President*,
Sir Nicolas BRATZA,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Mr J. BORREGO BORREGO, *judges*,
and Ms F. ELENS-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 29 June 2004,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 74976/01) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a United Kingdom national, Mr Nigel Eastaway ("the applicant"), on 3 August 2001.

2. The applicant was represented by Ms K. Mottee, a lawyer practising in London. The United Kingdom Government ("the Government") were represented by their Agent, Mr D. Walton, Foreign and Commonwealth Office.

3. The applicant alleged that there had been a violation of his right to a hearing within a reasonable time.

4. The application was allocated to the Fourth Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 18 November 2003, the Court declared the application admissible.

6. The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the parties replied in writing to each other's observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1943 and lives in Bishops Stortford, Hertfordshire.

A. The commencement of the disqualification proceedings and the strike-out application

8. The Blackspur group of companies (collectively, "Blackspur"), was formed by the applicant and others in September 1987 and at various times the applicant acted as director. Blackspur went into receivership in July 1990 with an estimated deficit of GBP 34 million.

9. On 1 July 1992, on the last day of the applicable two year limitation period, the Secretary of State for Trade and Industry ("the Secretary of State") issued proceedings against the applicant and four others ("the Blackspur proceedings") under section 6 of the Company Directors Disqualification Act 1986 ("the CDDA": see below).

10. The Secretary of State's evidence was not complete at the time he commenced proceedings, and he applied for an extension of time for the serving of evidence (see below). The defendants refused to consent to an extension being granted and instead, on 13 October 1992, three of the defendants (but not, at this stage, the applicant) applied to strike out the proceedings.

11. The Secretary of State's evidence was completed and served on the applicant on 14 December 1992. On 13 May 1993 the applicant applied to strike out the proceedings. The Secretary of State's application for permission to file the evidence out of time, and the cross-application to strike out the proceedings by the applicant and other defendants, were heard by the Registrar on 20 May 1993, when they were adjourned to 29 July 1993. On 27 January 1994 the Registrar granted the Secretary of State's application for an extension of time and dismissed the strike-out application. Two of the applicant's co-defendants appealed to the High Court. On 12 April 1995 the applicant also lodged an appeal.

B. Criminal proceedings

12. Related criminal charges had been brought against the applicant and three other defendants in the Blackspur proceedings on 1 July 1992. In May 1993 the applicant and other defendants had applied to stay the disqualification proceedings pending the conclusion of the criminal

proceedings. The criminal trial took place between March and June 1994, during which period the disqualification proceedings were adjourned generally, with liberty to restore. At the conclusion of the criminal trial, the applicant and one other defendant were acquitted, and two defendants were convicted. On appeal, the two convictions were quashed in February 1995.

13. By a letter dated 16 September 1994 the applicant invited the Secretary of State to reconsider whether, in the light of the acquittals in the criminal trial, it was in the public interest to carry on with the disqualification proceedings. On 15 December 1994 the Treasury Solicitor replied that the Secretary of State had decided that it remained expedient in the public interest to continue.

C. The strike-out and disqualification proceedings resumed

14. Once the criminal trial had been concluded, the appeal to the High Court brought by the first defendant to the disqualification proceeding, Mr Davies, against the Registrar's decision of 27 January 1994, could proceed and was dismissed on 2 May 1995. In November 1995 Mr Davies was granted leave to appeal out of time to the Court of Appeal, and his substantive appeal was dismissed by that court on 24 May 1996. The Court of Appeal found that the reasons for the Secretary of State's failure to complete his evidence before the proceedings were commenced had been "far from satisfactory", but considered nonetheless that the case should proceed since it was in the public interest to determine the "particularly serious" allegations of false accounting and trading while insolvent made against the defendants. In addition, the court observed that the delay by the Secretary of State had not affected the timing of the hearing or prejudiced the applicant, and that, once the proceedings had commenced, "the respondents' main concern was to delay the proceedings until after the conclusion of the criminal trial, not to hurry them on".

15. On 1 July 1996 the Registrar directed that the defendants should serve their evidence in response to that of the Secretary of State by 29 November 1996.

16. On 18 November 1996 the applicant wrote to the Secretary of State offering to settle the case by giving an undertaking not to act as a company director in the future. The Secretary of State refused to settle the case on that basis, insisting instead on a "Carecraft" settlement. This procedure, named after the case of *Re Carecraft Construction Co. Ltd* [1994] 1 WLR 172, allows the parties to proceedings under the CDDA to submit to the court an agreement that a disqualification order should be made for a specified period on the basis of undisputed (but not necessarily agreed) facts.

17. On 9 December 1996 the Registrar ordered that if the defendants had not served their evidence by 17 January 1997, they would be debarred from adducing any evidence.

18. The defendants served their evidence on 17 January 1997. On 20 January 1997 the Registrar directed that the Secretary of State should serve his evidence in reply by 17 March 1997. On 14 April 1997 the Registrar granted the Secretary of State a time-extension for the serving of evidence in reply until 30 June 1997, and this evidence was in fact served on 10 July 1997. At a further directions hearing on 4 August 1997 the defendants were given permission to adduce additional evidence in rejoinder by 1 December 1997. The defendants failed to comply with this order and on 8 December 1997 they were granted an extension of time until 9 February 1998.

19. On 30 January 1998 the applicant asked the Secretary of State to reconsider the continuance of the disqualification proceedings against him. On 6 February 1998 the Secretary of State informed the applicant that he intended to continue. On 9 February 1998 there was a further directions hearing, when the applicant was ordered to serve further evidence by 9 March 1998.

20. On 17 February 1998 the applicant's solicitors informed the Secretary of State's solicitor that the applicant was willing to negotiate a "Carecraft" settlement. On 5 March 1998 the Secretary of State replied that he would accept a settlement based on a disqualification period of five years.

21. In the light of these negotiations, at a directions hearing on 23 March 1998, the time-limit for the applicant's further evidence was extended indefinitely.

22. On 17 June 1998 the Secretary of State's solicitor sent a draft "Carecraft" statement. On 30 July 1998 the parties met to discuss it, and a revised statement was prepared. On 4 October 1998 the applicant broke off the settlement negotiations

23. On 8 December 1998 the matter was set down for trial on 4 October 1999.

24. On 23 April 1999 the applicant's solicitors again wrote to the Secretary of State asking him to discontinue the proceedings, on the ground that they had already exceeded the "reasonable time" provision in Article 6 § 1 of the Convention. On 30 June 1999 the Secretary of State informed the applicant that he had decided not to discontinue them.

25. Meanwhile, on 10 June 1999 the applicant contacted the Secretary of State to resume negotiations on the "Carecraft" settlement.

26. On 29 July 1999 there was a pre-trial review in the disqualification proceedings, at which the court gave detailed trial directions. The trial was set down to begin on 4 October 1999.

D. Judicial review

27. On 18 August 1999 the applicant applied for judicial review of the legality of the Secretary of State's decision of 30 June 1999, not to discontinue the proceedings on grounds of delay.

28. On 13 September 1999 the applicant agreed that he would sign the "Carecraft" statement if he failed in the judicial review proceedings. The disqualification proceedings were adjourned.

29. On 15 September 1999 the application for leave to apply for judicial review was refused. On 27 January 2000, following an oral hearing, leave was again refused.

30. On 2 February 2000, the applicant renewed his judicial review application before the Court of Appeal. It was refused by the Court of Appeal on 15 March 2000, following an oral hearing. In the course of a considered judgment, Lord Justice Buxton described the application as "misconceived", because the arguments on delay could, and should, have been made in the course of the disqualification proceedings and not in separate proceedings for judicial review. On 23 March 2000 Buxton LJ refused leave to appeal to the House of Lords.

31. The applicant appealed to the House of Lords, which granted leave on 11 July 2000. The House heard the applicant's appeal on 18 October 2000, and on 2 November 2000 delivered judgment dismissing it on the grounds that the House had no jurisdiction to hear an appeal from the decision of the Court of Appeal refusing leave to apply for judicial review (*R v. Secretary of State for Trade and Industry, ex parte Eastaway* [2000] 1 WLR 2222).

32. On 6 November 2000 the Secretary of State wrote to the applicant indicating that he wished to fix a hearing at which the "Carecraft" order could be made.

E. Proceedings under the Human Rights Act

33. The Human Rights Act 1998 came into force on 2 October 2000, and on 10 November 2000 the applicant issued an application in the Companies Court to strike out or dismiss the disqualification proceedings on the ground of violation of the reasonable time provision in Article 6 § 1.

34. The application was heard by the Vice-Chancellor on 7 February 2001, and judgment was delivered dismissing it on 15 February 2001, because the Vice-Chancellor did not find a violation of Article 6 § 1 (*Re Blackspur Group plc and Others; Secretary of State for Trade and Industry v. Eastaway and Others* [2001] 1 BCLC 653). The Vice-Chancellor held, *inter alia*:

> "It is true that the events in question occurred over ten years ago. It is also true that eight and a half years have now elapsed since the proceedings were commenced. In

those circumstances it is necessary to look critically at the events of the intervening period to determine whether more than a reasonable time has elapsed so as to constitute an infringement of Mr Eastaway's Convention rights. In my view most of the time elapsed is to be attributed either to the requirements of justice down to the conclusion of the criminal proceedings in June 1994 or to the conduct of Mr Eastaway. Such conduct includes the attempt to strike out the proceedings concluded in May 1996; Mr Davies' unsuccessful attempt, with which Mr Eastaway was associated, from October 1996 to November 1997 to have the proceedings stayed; the negotiations for a summary disposal under the Carecraft procedure from February to October 1998; the renewed attempts for that purpose between June and September 1999 and Mr Eastaway's unsuccessful attempts between August 1999 and November 2000 to obtain a judicial review of the decision of the Secretary of State to continue.

In the judgments of the Court of Appeal given in November 1997 in *Re Blackspur Group* [1998] 1 WLR 422, 427H and 433B it was recorded that Mr Davies did not suggest then that a fair trial was impossible. Mr Eastaway does not now suggest that the delay has been such that a fair trial is impossible. A very large proportion of the undoubtedly long time which has elapsed since these proceedings were commenced is due to the various actions taken by Mr Eastaway. Those actions were taken not to obtain but to avoid a fair and public hearing by an independent or impartial tribunal either within a reasonable time or at all. In my view there has been no breach of Mr Eastaway's Convention rights under Article 6 and for the Secretary of State now to proceed with these proceedings would not be incompatible with them."

35. The Vice-Chancellor refused leave to appeal, so the applicant appealed to the Court of Appeal, which also refused leave. The applicant renewed his application at an oral hearing on 6 April 2001, at which the Court of Appeal again refused leave to appeal, on the basis that there had been no violation of Article 6 § 1.

F. Further proceedings

36. On 8 March 2001 the applicant issued a further action for a declaration that the continuation of the disqualification proceedings would be contrary to Article 6 § 1 of the Convention. The Secretary of State applied to have these proceedings struck out, on the grounds that they raised identical issues to the application dismissed by the Vice-Chancellor the previous month.

37. The applicant responded with three further applications. In the first, dated 9 April 2001, he sought to be released from his undertaking of 13 September 1999; in the second, on 18 April 2001, he sought a stay or dismissal of the proceedings on the grounds that the Secretary of State should now accept a far more limited undertaking from him in place of the agreed "Carecraft" statement; in the third application, issued 24 April 2001, he applied for judicial review of the Secretary of State's refusal to accept his newly proffered undertakings.

38. On 23 May 2001 Patten J struck out the applicant's new action and dismissed his further three applications. Patten J's decision was upheld by the Court of Appeal on 13 September 2001.

39. Meanwhile, on 31 May 2001 the applicant signed an undertaking which provided for an agreed period of disqualification of four and a half years, commencing on 25 June 2001. The undertaking was accepted and the proceedings against the applicant were terminated on 4 June 2001.

II. RELEVANT DOMESTIC LAW AND PRACTICE

40. The Company Directors Disqualification Act 1986 ("the CDDA") empowers the court, in specified circumstances, to disqualify a person from being a director, liquidator or administrator of a company, a receiver or manager of a company's property or in any way, whether directly or indirectly, to be concerned in the promotion, formation or management of a company for a specified period starting from the date of the order (section 1(1)).

41. Under section 6 of the Act, it is the duty of the court to make a disqualification order against a person,

> "... in any case where, on an application under this section, it is satisfied - (a) that he is or has been a director of a company which has at any time become insolvent (whether while he was a director or subsequently), and, (b) that his conduct as a director of that company (either taken alone or taken together with his conduct as a director of any other company or companies) makes him unfit to be concerned in the management of a company."

42. The minimum period of disqualification under this section is two years, and the maximum is fifteen years.

43. Section 7(1) of the CDDA provides, *inter alia,* that the Secretary of State may apply for a section 6 order to be made against a person if it appears to the Secretary of State that such an order would be expedient in the public interest. Under section 7(2), proceedings under section 6 may not be commenced more than two years after the insolvency of the company.

44. Rule 3 of the Insolvent Companies (Disqualification of Unfit Directors) Proceedings Rules 1987 reads as follows:

> "(1) There shall, at the time when the summons is issued, be filed in court evidence in support of the application for a disqualification order, and copies of the evidence shall be served with the summons on the respondent.
>
> (2) The evidence shall be by one or more affidavits, except where the applicant is the official receiver, in which case it may be in the form of a written report (with or without affidavits by other persons) which shall be treated as if it had been verified by affidavit by him and shall be prima facie evidence of any matter contained in it.

(3) There shall in the affidavit or affidavits or (as the case may be) the official receiver's report be included a statement of the matters by reference to which the respondent is alleged to be unfit to be concerned in the management of a company."

THE LAW

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

45. The applicant complained about the length of the proceedings under Article 6 § 1 of the Convention, which provides, as relevant:

"In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time ..."

46. The Government submitted that the proceedings were extremely complex, both factually and procedurally. They had arisen out of complicated leasing and financing arrangements, the details of which had taken many months to unravel. There were five co-defendants, and whenever one or more of them brought an application or an appeal, the proceedings against all the defendants were unavoidably delayed; the same occurred during the course of the criminal proceedings against some of the directors. In addition to numerous directions hearings before the Registrar of the Companies Court, the disqualification proceedings against the applicant required the attention of a High Court judge on six occasions, the Court of Appeal on six occasions and the House of Lords on one occasion.

47. The Government contended that by far the most significant cause of the delay in the determination of the proceedings was the conduct of the applicant himself, as the Vice-Chancellor found in his judgment of 15 February 2001. They drew attention to the following acts and omissions on the part of the applicant which contributed towards the overall delay: (i) his choice, together with the other defendants, to refuse to consent to the late service of evidence by the Secretary of State; (ii) his slowness and reluctance to serve evidence in response to that of the Secretary of State; (iii) his decision to associate himself with the attempt by Mr Davies to compel the Secretary of State to accept undertakings; (iv) his inconsistent and dilatory approach to negotiating a "Carecraft" settlement; (v) his misguided decision to bring and pursue an application for judicial review; (vi) his refusal, following the dismissal of the judicial review proceedings, to abide by the undertaking he had given in September 1999; (vii) his decision to pursue a breach of Article 6 § 1 under the Human Rights Act 1998, when he knew that he had himself been the cause of much of the delay; (viii) his refusal to accept the rejection of his plea under the Human

Rights Act, which resulted in further proceedings before Patten J and a further attempt to resile from his undertaking.

48. The Government submitted, further, that a certain amount of the delay was caused by third parties, such as the co-defendants, for which the State was not responsible. They accepted that the Court of Appeal was critical of the Secretary of State's failure to prepare and file his evidence in compliance with the statutory time-limit, but pointed out that the domestic courts were not critical of the State authorities' conduct thereafter.

49. The applicant reminded the Court that, in its judgment in *Davies v. the United Kingdom,* no. 42007/98, 16.07.2002, it carried out an assessment of the reasonableness of the length of these same proceedings up to January 1988, and found them to have been too long. The period held by the Court in *Davies* to have violated the reasonable time guarantee included a year's delay, between May 1995 and May 1996, when Mr Davies appealed against the decision to admit the Secretary of State's late evidence: this delay could not be attributed to the present applicant. The proceedings against Mr Eastaway lasted three years and five months longer than those against Mr Davies. Although the Government criticised him for bringing proceedings for judicial review and under the Human Rights Act, the applicant was obliged to exhaust his domestic remedies and bring his Convention complaints before the domestic courts in the manner provided for by the law as it stood at the time.

50. It was agreed between the parties that Article 6 § 1 applied and that the proceedings in question commenced on 1 July 1992 and did not end until 4 June 2001, when the applicant's undertaking was endorsed by the relevant authorities.

51. The Court recalls that the reasonableness of the length of proceedings is to be assessed in the light of the circumstances of the case, having regard in particular to its complexity and the conduct of the parties to the dispute and of the relevant authorities (see the above-mentioned *Davies* judgment, § 26).

52. The proceedings against the applicant lasted one month short of nine years. The Court - and the Commission before it - has held that where disqualification proceedings of this kind are brought against a company director and would have a considerable impact on his or her reputation and ability to practise his or her profession, special diligence is called for in bringing the proceedings to an end expeditiously (see the above-mentioned *Davies* judgment and *E.D.C. v. the United Kingdom*, Commission's Report of 26 February 1997, no. 24433/94, unreported).

53. As previously mentioned, the Court has already been called upon to examine a complaint about the length of these same proceedings, brought by one of the co-defendants (*Davies v. the United Kingdom,* op. cit.). In that case the Court found a violation of Article 6 § 1, observing, in paragraph 29:

> "... the State must be held responsible for the greater part of the delay. The Court accepts that the Secretary of State's case against the applicant was based on complex evidence. However, as a matter of domestic procedural law, an outline of this evidence should have been served with the summons on 1 July 1992 ... . The Secretary of State's failure to comply with this time-limit was described by the Court of Appeal as 'far from satisfactory'. In the event, the evidence was served some five months later, on 14 December 1992, but the Secretary of State's application for leave to serve the evidence out of time, together with the applicant's cross-application to have the proceedings struck out, were not decided at first instance until 27 January 1994. The applicant appealed against the Registrar's order, but this appeal was not finally determined by the Court of Appeal until 24 May 1996 (almost four years after commencement). For four months (March-June 1994) the civil proceedings were adjourned whilst a criminal trial against some of the co-defendants - but not the applicant - took place. A further five months elapsed after the criminal proceedings had come to an end while the Secretary of State decided whether or not it was in the public interest to continue the disqualification proceedings against the applicant."

54. The above comments about the delay in the proceedings between their commencement on 1 July 1992 and the date on which they came to an end in respect of Mr Davies - 12 January 1998 - apply equally in respect of the present applicant. Moreover, while Mr Davies reached a settlement with the Secretary of State in January 1998, the proceedings against Mr Eastaway did not come to such a conclusion until some three and a half years later.

55. A great deal of the responsibility for this latter period of delay can be laid on the applicant. He chose to pursue an unmeritorious application for judicial review before the High Court, Court of Appeal and House of Lords. Almost as soon as the Human Rights Act became enforceable, the applicant brought an action alleging a breach of Article 6 § 1, which, again, he pursued to appeal level. The applicant cannot be criticised for making this application, but, given that it was dealt with fairly expeditiously by the courts, neither can blame be attributed to the State authorities in respect of the delay it occasioned. Finally, having failed in his arguments under Article 6, the applicant immediately brought a further action on almost identical grounds: when this was struck out in the High Court, he again appealed to the Court of Appeal.

56. Nonetheless, even if the Court were to base its findings only on the first five and a half years of the proceedings, it is difficult to distinguish this case from *Davies.* In all the circumstances, the Court does not consider that the proceedings against the applicant were pursued with the diligence required by Article 6 § 1. There has accordingly been a violation of that provision, in that the applicant's "civil rights and obligations" were not determined within "a reasonable time".

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

57. 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

58. The applicant did not claim any pecuniary damages, but he did claim to be entitled to EUR 4,500 in respect of non-pecuniary damage, which was the amount awarded to the applicant in the *Davies* case referred to above.

59. The Government had no comment in connection with this claim.

60. The Court refers to its observation in paragraph 56 above that it is difficult to distinguish the present case from that of *Davies.* It therefore considers it appropriate to award the same amount of compensation for non-pecuniary damage, namely EUR 4,500.

B. Costs and expenses

1. Domestic legal costs

61. The applicant claimed domestic legal costs in respect of his application for judicial review and his two applications under the Human Rights Act, which were pursued to prevent or redress the breach of Article 6 on grounds of undue length. The costs claimed in respect of these parts of the domestic proceedings totalled GBP 59,981.03.

62. The Government contended that the claim for the reimbursement of the applicant's domestic legal costs should be rejected, because these had not been incurred to prevent or redress the violation in question. They submitted that the actions for judicial review and under the Human Rights Act had been misconceived in that the redress sought, namely striking out or dismissal of the disqualification proceedings, was inappropriate, the proper remedy for the violation in question being a relatively modest amount of damages.

63. The Court refers to paragraph 55 above, where it found the application for judicial review and the second application under the Human Rights Act to have been unmeritorious and misconceived. The first application under the Human Rights Act, which was dismissed by the Vice-Chancellor on 15 February 2001 was, however, an attempt by the applicant to use domestic remedies to address the issue of delay under Article 6. The

Court awards EUR 15,000 in this connection, together with any tax that may be payable.

2. Strasbourg legal costs

64. The applicant claimed a total of GBP 17,803.89 in respect of the Strasbourg proceedings, which comprised solicitors' costs of GBP 6,457.80 and a barrister's fees of GBP 11,346.09 (inclusive of value-added tax).

65. The Government submitted that this figure was excessive and that no more than GBP 8,500 should be awarded under this head.

66. The Court notes that this was a simple length of proceedings case, which was rendered all the more straightforward because of the possibility of relying on the *Davies* judgment. It considers that EUR 10,000 would be a fair award in respect of Strasbourg costs, together with any tax that may be payable.

C. Default interest

67. 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. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

2. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts, to be converted into pounds sterling at the rate applicable at the date of settlement:

(i) EUR 4,500 (four thousand five hundred euros) in respect of non-pecuniary damage;

(ii) EUR 25,000 (twenty-five thousand euros) in respect of costs and expenses;

(iii) any tax that may be chargeable on the above amounts;

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

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

Done in English, and notified in writing on 20 July 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELENS-PASSOS	Matti PELLONPÄÄ
Deputy Registrar	President