AS TO THE ADMISSIBILITY OF

Application No. 27346/95
by Simon BARRON
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 9 April 1997, the following members being present:

Mrs. J. LIDDY, President
MM. M.P. PELLONPÄÄ
E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. MARXER
B. CONFORTI
I. BÉKÉS
G. RESS
A. PERENIC
C. BÎRSAN
K. HERNDL
M. VILA AMIGÓ
Mrs. M. HION
Mr. R. NICOLINI

Mrs. M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 27 April 1995 by Simon Barron against the United Kingdom and registered on 16 May 1995 under file No. 27346/95;

Having regard to the reports provided for in Rule 47 of the Rules of Procedure of the Commission and the respondent Government's indication that they have no observations on the admissibility of the applicant's complaints;

Having deliberated;

Decides as follows:

THE FACTS

The applicant describes himself as having British and Australian citizenship, was born in 1970 and is resident in Cambridgeshire. He is represented before the Commission by Mr. Gilbert Blades, a solicitor practising in Lincoln. The facts as submitted by the applicant may be summarised as follows.

A. Particular circumstances of the case.

In November 1993 the applicant, who was a Senior Aircraftman in the Royal Air Force, was charged with the civilian criminal offence of assault occasioning actual bodily harm and with conduct to the prejudice of good order and air force discipline contrary to the Offences Against the Person Act 1861 and the Air Force Act 1955, respectively.

The Convening Officer, by order dated 17 December 1993, convened a district court-martial to try the applicant on the charges. On

6 January 1994 the court-martial found the applicant guilty on the assault charge and he was sentenced to six months detention and to dismissal from the air force.

The Confirming Officer subsequently confirmed the applicant's conviction and sentence.

On 11 April 1994 the applicant petitioned the Defence Council against conviction and sentence. By letter dated 3 June 1994 the applicant's representative was informed of the decision, taken by the Air Force Board, to reject his petition.

On 3 June 1994 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal to that court against conviction and on 25 August 1994 this application was rejected.

On 8 September 1994 the applicant renewed his application for leave to appeal against conviction before the full Courts-Martial Appeal Court and this application was also rejected on 13 December 1994.

B. Relevant domestic law and practice.

The Commission refers to the "Relevant domestic law and practice" contained in its report on the Coyne application (No. 25942/94, Comm. Report 25.6.96, unpublished).

COMPLAINTS

The applicant complains under Article 6 of the Convention that he was denied a fair and public hearing by an independent and impartial tribunal established by law.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 27 April 1995 and was registered on 16 May 1995.

On 4 July 1995 the Commission decided to communicate and adjourn the application.

On 2 July 1996 the Commission decided to request the Government's observations. In their letter received on 7 November 1996 the Government stated that they have no observations on the admissibility of the application.

THE LAW

The applicant complains under Article 6 (Art. 6) of the Convention that he was denied a fair and public hearing by an independent and impartial tribunal established by law. The Government have no observations on the admissibility of the applicant's complaints.

The Commission considers that the application raises complex and serious issues under Article 6 (Art. 6) of the Convention which require determination on the merits. It follows that these complaints of the applicant cannot be dismissed as manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention. No other ground for declaring them inadmissible has been established.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION ADMISSIBLE, without prejudging the merits.

M.F. BUQUICCHIO J. LIDDY

Secretary
to the First Chamber

President
of the First Chamber