AS TO THE ADMISSIBILITY OF

Application No. 26271/95
by Stephen Edward BATTLE
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 21 December 1994 by Stephen Edward Battle against the United Kingdom and registered on 24 January 1995 under file No. 26271/95;

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 is a British citizen, born in 1969 and resident in Derby. 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.

On 7 January 1994 the applicant, then a private in the armed forces of the United Kingdom stationed in Cyprus, was charged (pursuant to section 70 of the Army Act 1955) with the civilian criminal offence of inflicting grievous bodily harm contrary to the Offences Against the Person Act 1861.

The Convening Officer, by order dated 25 January 1994, convened a district court-martial to try the applicant on the charge. On 9 February 1994 the court-martial sitting in Hampshire found the applicant guilty and he was sentenced to eleven months detention and to stoppages of pay until compensation was paid to the victim.

On 17 February 1994 the applicant petitioned the Confirming Officer against conviction and sentence. The applicant's conviction and sentence were confirmed by the Confirming Officer and his conviction was promulgated on 17 March 1994.

On 28 March 1994 the applicant petitioned the Defence Council against conviction and sentence. By letter dated 29 April 1994 the applicant's representative was informed of the decision, taken by the Army Board, to reject the petition.

On 4 May 1994 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal against conviction to that court. On 11 August 1994 this application was rejected.

On 15 August 1994 the applicant renewed his application for leave to appeal against conviction before the full Courts-Martial Appeal Court and on 15 November 1994 this application was rejected by the full court.

B. Relevant domestic law and practice.

The Commission refers to the "Relevant domestic law and practice" contained in the judgment in the Findlay case (Eur. Court HR, Findlay v. the United Kingdom judgment of 25 February 1997, to be published in Reports of Judgments and Decisions for 1997) and 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 21 December 1994 and was registered on 24 January 1995.

On 17 May 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
Secretary
to the First Chamber

J. LIDDY
President
of the First Chamber