AS TO THE ADMISSIBILITY OF

Application No. 27341/95
by Michael BILLING
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 26 April 1995 by Michael Billing against the United Kingdom and registered on 16 May 1995 under file No. 27341/95;

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 Wiltshire. 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 December 1993 the applicant, who was a Senior Aircraftman in the Royal Air Force stationed in Germany, was charged (pursuant to section 70 of the Air Force Act 1955) with dangerous driving and with driving having consumed alcohol above the prescribed limit contrary to the Road Traffic Act 1988.

The Convening Officer, by order dated 26 April 1994, convened a district court-martial to try the applicant on the charges. On 11 May 1994 the court-martial found the applicant guilty on the second charge (the first charge having been withdrawn) and he was sentenced to eighty four days detention.

On 25 May 1994 the applicant petitioned the Confirming Officer against conviction and sentence. By letter dated 4 July 1994 the Confirming Officer notified the applicant's representative that the conviction had been confirmed but that the sentence had been reduced to fifty six days detention.

On 8 August 1994 the applicant petitioned the Defence Council against conviction. By letter dated 11 October 1994 the applicant's representative was informed of the decision on this latter petition, taken by the Air Force Board, not to vary the conviction or sentence.

On 10 October 1994 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal to that court against conviction. On 17 November 1994 this application was rejected.

On 23 November 1994 the applicant renewed his application for leave to appeal against conviction before the full Courts-Martial Appeal Court and on 2 February 1995 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 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 26 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
Secretary
to the First Chamber

J. LIDDY
President
of the First Chamber