AS TO THE ADMISSIBILITY OF

Application No. 31899/96
by Tony BRUCE
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 2 July 1997, the following members being present:

Mrs. J. LIDDY, President
MM. M.P. PELLONPÄÄ
E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. CONFORTI
N. BRATZA
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 24 May 1996 by Tony BRUCE against the United Kingdom and registered on 13 June 1996 under file No. 31899/96;

Having regard to the reports provided for in Rule 47 of the Rules of Procedure of the Commission and to the respondent Government's letter dated 26 February 1997;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen born in 1954 and resident in Harrowgate, the United Kingdom. He is represented before the Commission by Mr. Gilbert Blades, a solicitor practising in Lincoln. The facts as presented by the applicant may be summarised as follows.

A. Particular facts of the case

In September 1994 the applicant, a junior technician in the Royal Air Force, was charged (pursuant to section 70 of the Air Force Act 1955) with five counts of indecent assault contrary to the Sexual Offences Act 1956.

By order dated 28 September 1994 a district court-martial was convened to try the applicant on the charges. On 2 November 1994 the applicant was convicted as charged and sentenced to 9 months imprisonment and to be dismissed from the air force with disgrace.

The conviction and sentence were subsequently confirmed by the Confirming Officer. On 14 February 1995 the applicant petitioned the Defence Council against conviction pointing to alleged errors and misdirections on the part of the Judge Advocate. By letter dated 8 June 1995 the applicant's representatives were informed of the decision, taken by the Army Board, to reject the applicant's petition.

On 12 June 1995 the applicant applied for leave to appeal to the Courts-Martial Appeal Court against conviction and for an extension of time to appeal. On 20 July 1995 a single judge of the Courts-Martial Appeal Court granted the extension of time but refused the applicant's substantive application. On 15 January 1996 the full Courts-Martial Appeal Court rejected the applicant's application for leave to appeal against conviction to that 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 24 May 1996 and was registered on 13 June 1996.

On 27 November 1996 the Commission decided to communicate the application and request the parties' observations.

In their letter received on 7 March 1997 the Government stated that they have no observations on the admissibility of the application.

THE LAW

The applicant complains under Article 6 (Art. ) 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 of the case.

M.F. BUQUICCHIO
Secretary
to the First Chamber

J. LIDDY
President
of the First Chamber