AS TO THE ADMISSIBILITY OF

Application No. 27342/95
by Debra HILEY
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 2 May 1995 by Debra Hiley against the United Kingdom and registered on 16 May 1995 under file No. 27342/95;

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 Yorkshire. She 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 June 1994 the applicant, then a non-commissioned officer in the army, was charged (pursuant to section 70 of the Army Act 1955) with the civilian criminal offence of assault occasioning actual bodily harm, or in the alternative, with the civilian criminal offence of common assault contrary to the Offences Against the Person Act 1861 and the Criminal Justice Act 1988, respectively.

The Convening Officer, by order dated 1 June 1994, convened a district court-martial to try the applicant on the charges. On 22 July 1994 the court-martial found the applicant guilty on the first

charge and she was sentenced to nine months detention, to dismissal from the army, to be reduced to the ranks and to pay £500.00 compensation.

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

On 6 September 1994 the applicant petitioned the Defence Council against conviction and sentence. The Army Board, who took the decision on this petition, did not vary the conviction or sentence apart from reducing the compensation payable to £100. The applicant's representative was notified of this decision by letter dated 31 October 1994.

On 23 November 1994 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal against conviction to that court. On 30 December 1994 this application was rejected.

On 6 January 1995 the applicant renewed her application for leave to appeal against conviction before the full Courts-Martial Appeal Court and on 6 March 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 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 she 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 2 May 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 she 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 Chambery