AS TO THE ADMISSIBILITY OF

Application No. 25939/94
by Michael Donald JARRETT
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 5 December 1994 by Michael Donald Jarrett against the United Kingdom and registered on 14 December 1994 under file No. 25939/94;

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 1959 and resident in Reading. 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 1993 the applicant was a non-commissioned officer in the Royal Air Force of the United Kingdom stationed in Germany. In October 1993 he was charged, pursuant to section 70(1) of the Air Force Act 1955, with the civilian criminal offence of obtaining property by deception contrary to the Theft Act 1968.

The Convening Officer, by order dated 19 October 1993, convened a district court-martial to try the applicant. The court-martial took place at the Royal Air Force station in Laarbruch, Germany on 11-12 November 1993. The applicant was found guilty and was sentenced to be reduced to the rank of corporal and to a stop in pay.

On 17 November 1993 the applicant presented a petition (against conviction and sentence) to the Confirming officer. By letter dated 20 December 1993, the applicant's representative was notified that the conviction and sentence had been confirmed by the Confirming Officer.

On 21 December 1993 the applicant presented an appeal petition (against conviction and sentence) to the Defence Council. However, by letter dated 14 April 1994 the applicant's representative was notified of the decision, taken by the Air Force Board, to reject this petition.

On 28 July 1994 the applicant was refused, by a single judge of the Courts-Martial Appeal Court, leave to appeal against conviction to that court.

The applicant's subsequent renewal of that application to the full Courts-Martial Appeal Court was rejected on 15 November 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 5 December 1994 and was registered on 14 December 1994.

On 28 February 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