AS TO THE ADMISSIBILITY OF

Application No. 24584/94
by Mark PARTOON
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 8 June 1994 by Mark Partoon against the United Kingdom and registered on 11 July 1994 under file No. 24584/94;

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 1972 and resident in Northamptonshire. 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 or around March 1993 the applicant, then a signaller in the Royal Corps of Signals of the army of the United Kingdom stationed in Cyprus, was charged (pursuant to section 70(1) of the Army Act 1955) with the civilian criminal offences of wounding and common assault, contrary to the Criminal Justice Act 1988 and the Offences Against the Person Act 1861, respectively.

The Convening Officer, by order dated 20 April 1993, convened a district court-martial to try the applicant on the charges.

On 27 April 1993 the court-martial found the applicant guilty and he was sentenced to dismissal from the army and to be detained for

18 months.

The applicant subsequently petitioned the Confirming Officer. However, by letter dated 15 June 1993 the applicant's representative was notified that the conviction and sentence had been confirmed by the Confirming Officer.

On 18 June 1993 the applicant petitioned the Defence Council. By letter dated 9 August 1993 the applicant's representative was informed of the decision, taken by the Army Board, to reject this petition.

On 11 August 1993 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal against conviction to that court. This application was rejected on 22 September 1993.

On 14 October 1993 the applicant renewed his application for leave to appeal before the full Courts-Martial Appeal Court and this application was rejected on the 16 May 1994.

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 8 June 1994 and was registered on 11 July 1994.

On 7 December 1994 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