AS TO THE ADMISSIBILITY OF

Application No. 25937/94
by Simon PASCOE
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 22 November 1994 by Simon Pascoe against the United Kingdom and registered on 14 December 1994 under file No. 25937/94;

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 1962 and resident in Norfolk. 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 November 1993 the applicant, then a non-commissioned officer in the Royal Air Force, 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 18 November 1993, convened a district court-martial to try the applicant. The court-martial took place on 13-16 December 1993 and the applicant was found guilty. The court-martial sentenced the applicant to 140 days detention, to dismissal from the air force, to a stop in pay and to be reduced to the ranks.

The conviction and sentence of the court-martial were subsequently confirmed by the Confirming Officer and the applicant's sentence was promulgated on 31 January 1994.

On 3 February 1994 the applicant presented an appeal petition, against conviction and sentence, to the Defence Council. The decision to refuse this petition was taken by the Air Force Board on 3 May 1994.

On 3 August 1994 the applicant's application to a single judge of the Courts-Martial Appeal Court, for leave to appeal against conviction to that court, was rejected.

The applicant's subsequent application to the full Courts-Martial Appeal Court, for leave to appeal against conviction, 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 22 November 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