AS TO THE ADMISSIBILITY OF

Application No. 24583/94
by Serge Clency POINEN
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 Serge Clency Poinen against the United Kingdom and registered on 11 July 1994 under file No. 24583/94;

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 1949 and resident in Derby. 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 June 1993 the applicant, then a corporal in the Royal Air Force of the United Kingdom, was charged (pursuant to section 70(1) of the Air Force Act 1955) with the civilian criminal offence of theft from an air force base in Turkey contrary to the Theft Act 1968.

The Convening Officer, by order dated 21 June 1993, convened a district court-martial to try the applicant on the charge.

On 4 August 1993 the court-martial found the applicant guilty of theft of two bottles of perfume, a tennis racket and its cover. He was sentenced to dismissal from the air force, to be detained for a period of time and to be reduced to the ranks.

On 13 August 1993 the applicant petitioned the Confirming Officer against conviction and sentence. By letter dated 21 August 1993 the applicant's representative was notified that the conviction and sentence had been confirmed by the Confirming Officer.

On 1 September 1993 the applicant presented an appeal petition to the Defence Council. By letter dated 16 November 1993 the applicant's representative was informed of the decision on this petition which had been taken by the Air Force Board. The Air Force Board upheld the conviction but reduced the period of detention to 56 days.

On 12 October 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 16 December 1993.

On 14 January 1994 the applicant renewed his application before the full Courts-Martial Appeal Court and this application was rejected on the 28 April 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 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