AS TO THE ADMISSIBILITY OF

Application No. 32944/96
by Morag Ann POWELL
against the United Kingdom

The European Commission of Human Rights (First Chamber) sitting in private on 2 July 1997, the following members being present:

Mrs. J. LIDDY, President
MM. M.P. PELLONPÄÄ
E. BUSUTTIL
A. WEITZEL
C.L. ROZAKIS
L. LOUCAIDES
B. CONFORTI
N. BRATZA
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 3 September 1996 by Morag Ann POWELL against the United Kingdom and registered on 11 September 1996 under file No. 32944/96;

Having regard to the reports provided for in Rule 47 of the Rules of Procedure of the Commission and the respondent Government's letter dated 26 February 1997;

Having deliberated;

Decides as follows:

THE FACTS

The applicant is a British citizen born in 1954 and resident in Harrowgate, the United Kingdom. She is represented before the Commission by Mr. Gilbert Blades, a solicitor practising in Lincoln. The facts as presented by the applicant may be summarised as follows.

A. Particular facts of the case

In late 1995 the applicant, a Corporal in the Royal Army Dental Corps, was charged (pursuant to section 70 of the Army Act 1955) with assault occasioning actual bodily harm contrary to the Offences Against the Person Act 1861. A district court-martial was convened to try the applicant. On 20 December 1995 the applicant was convicted and was sentenced to 56 days imprisonment, to be dismissed from the army and to be reduced to the ranks.

The conviction and sentence were subsequently confirmed by the Confirming Officer and, accordingly, promulgated on 27 March 1996. On 4 April 1996 the applicant petitioned the Defence Council against

conviction pointing to, inter alia, the alleged unreliable nature of certain evidence and the alleged inadequate directions given by the Judge Advocate. By letter dated 24 June 1996 the applicant's representatives were informed of the decision, taken by the Army Board, to reject the applicant's petition.

On 13 June 1996 the applicant applied for leave to appeal to the Courts-Martial Appeal Court against conviction. On 29 July 1996 a single judge of the Courts-Martial Appeal Court refused leave to appeal.

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 para. 1 of the Convention that she did not receive a fair and public hearing by an independent and impartial tribunal established by law.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 3 September 1996 and was registered on 11 September 1996.

On 27 November 1996 the Commission decided to communicate the application and to request the parties' observations.

In their letter received on 7 March 1997 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 of the case.

M.F. BUQUICCHIO
Secretary
to the First Chamber

J. LIDDY
President
of the First Chamber