AS TO THE ADMISSIBILITY OF

Application No. 28790/95
by Jason Lee ROBERTS
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 21 September 1995 by Jason Lee Roberts against the United Kingdom and registered on 29 September 1995 under file No. 28790/95;

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 1970 and he is currently in prison in Kent. 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 July 1994 the applicant, who was a soldier in the army stationed in Germany, was charged (pursuant to section 70 of the Army Act 1955) with the civilian criminal offence of theft (of a pistol) contrary to the Theft Act 1968.

The Convening Officer, by order dated 2 November 1994, convened a general court-martial to try the applicant on the charge. On 4 November 1994 the court-martial found the applicant guilty and he was sentenced to three years imprisonment and to dismissal from the army.

The Confirming Officer subsequently confirmed the conviction and sentence.

On 21 December 1994 the applicant petitioned the Defence Council against conviction and sentence. By letter dated 1 March 1995 the applicant's representative was informed of the decision, taken by the Army Board, not to vary the conviction or sentence.

On 24 March 1995 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal to that court against conviction. On 26 April 1995 this application was rejected and a notification in this respect was sent to the applicant on 1 May 1995.

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 in 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 21 September 1995 and was registered on 29 September 1995.

On 28 February 1996 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	J. LIDDY
Secretary	President
to the First Chamber	of the First Chamber