AS TO THE ADMISSIBILITY OF

Application No. 27357/95
by Christopher RODGERS
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 24 April 1995 by Christopher Rodgers against the United Kingdom and registered on 16 May 1995 under file No. 27357/95;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

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 1973 and is currently resident in Motherwell. 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 August 1994 the applicant, then a Senior Aircraftman in the Royal Air Force, was charged with making a hoax bomb call and being absent without leave contrary to sections 69 and 37 of the Air Force Act 1955.

The Convening Officer, by order dated 31 August 1994, convened a district court-martial to try the applicant on the charges. The

applicant pleaded guilty to the charges against him at the court-martial hearing. On 31 October 1994 the court-martial sentenced the applicant to detention for 15 months and to dismissal from the air force.

On 23 November 1994 the applicant submitted a petition against his sentence to the Confirming Officer. By letter dated 1 December 1994 the applicant's representative was informed that the applicant's sentence had been confirmed by the Confirming Officer.

The applicant subsequently presented an appeal petition to the Defence Council. By letter dated 1 March 1995 the decision to reject this petition, taken by the Air Force Board, was communicated to the applicant's representative.

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 24 April 1995 and was registered on 16 May 1995.

On 4 July 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