AS TO THE ADMISSIBILITY OF

Application No. 30462/96
by Paul WARDLE
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 6 March 1996 by Paul Wardle against the United Kingdom and registered on 15 March 1996 under file No. 30462/96;

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 Clwyd, Wales. 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 non-commissioned officer in the Royal Air Force, was charged (pursuant to section 70 of the Air Force Act 1955) with the civilian criminal offence of theft contrary to the Theft Act 1968.

The Convening Officer, by order dated 24 August 1994, convened a district court-martial to try the applicant on the charge. On 28 September 1994 the court-martial found the applicant guilty. He was sentenced to nine months imprisonment, to be dismissed from the air force, to be reduced to the ranks and to stoppages in pay in the sum of £1593.00.

The Confirming Officer subsequently confirmed the applicant's conviction and sentence.

On 15 December 1994 the applicant petitioned the Defence Council against conviction. By letter dated 8 June 1995 the applicant's representative was informed of the decision, taken by the Air Force Board, to reject this petition.

On 12 June 1995 the applicant applied to a single judge of the Courts-Martial Appeal Court for leave to appeal to that court against conviction. He also applied for an extension of time in which to do so and for legal aid for the appeal. In August 1995 the single judge allowed the application for leave to appeal in relation to an argument as regards one of the Judge Advocate's directions.

On 22 January 1996 the full Courts-Martial Appeal Court dismissed the applicant's appeal.

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 6 March 1996 and was registered on 15 March 1996.

On 15 May 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
to the First Chamber

President
of the First Chamber