

Application No. 12691/87
by Laurence MARLEY
against the United Kingdom

The European Commission of Human Rights sitting in private
on 7 December 1990, the following members being present:

MM. C.A. NØRGAARD, President
J.A. FROWEIN
S. TRECHSEL
G. SPERDUTI
E. BUSUTTIL
G. JÖRUNDSSON
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.-C. SOYER
H.G. SCHERMERS
H. DANELIUS
Mrs. G. H. THUNE
Sir Basil HALL
MM. F. MARTINEZ RUIZ
C.L. ROZAKIS
Mrs. J. LIDDY
MM. L. LOUCAIDES
J.-C. GEUS
A.V. ALMEIDA RIBEIRO
M.P. PELLONPÄÄ

Mr. H.C. KRÜGER, Secretary to the Commission

Having regard to Article 25 of the Convention for the
Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 27 January 1987
by Laurence MARLEY against the United Kingdom and registered on 2
February 1987 under file No. 12691/87;

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

Having deliberated;

Decides as follows:

THE FACTS

The facts submitted by the parties may be summarised as
follows.

The applicant, Mr. Laurence Marley, was an Irish citizen born
in 1945. He was represented in the proceedings before the Commission
by Mr. P. J. Finucane, solicitor, Belfast. The applicant was killed
on 2 April 1987.

The applicant was arrested at his home on 11 November 1986 at
06.35 hours. He was informed at the time of his arrest that he was
being arrested under Section 11 of the Northern Ireland (Emergency
Provisions) Act 1978 on grounds of being a suspect terrorist.
Section 11(1) states that "Any constable may arrest without warrant
any person whom he suspects of being a terrorist".

He was taken to Castlereagh Police Office and again informed
that he had been arrested under Section 11 of the 1978 Act and that he
could be held detained for up to 72 hours and could see a solicitor

only after 48 hours.

The applicant was interrogated at regular intervals during his detention and was eventually released at 14.00 on 13 November 1986.

The applicant stated that he was not informed of the reasons for his arrest except that he was being arrested under Section 11 of the 1978 Act as a suspect terrorist. Nor was he informed of any charge against him.

The applicant was not brought before a judge or other officer authorised by law to exercise judicial power or given any opportunity for release on bail.

COMPLAINTS

The applicant pointed out that the United Kingdom withdrew its derogation under Article 15 of the Convention on 22 August 1984.

He complained that his arrest was in breach of Article 5 paras. 1 and 2 of the Convention. In particular, he stated that his arrest was solely for the purpose of interrogating him and that his detention was not justified under Article 5 para. 1 (a), (b), (c) or (d).

He further complained that Section 11 of the 1978 Act permits arrest and detention solely on grounds of suspicion, as opposed to the requirement of reasonable suspicion under Article 5 para. 1 (c) of the Convention.

He further complained that since the provisions of the Convention are not part of domestic law he was not able to bring any proceedings to determine the lawfulness of his arrest and detention, in breach of Article 5 para. 4, and that he was therefore denied an enforceable right to compensation in breach of Article 5 para. 5.

The applicant further claimed that the lack of an enforceable right to compensation constituted a breach of Article 13.

As regards domestic remedies, the applicant accepted that the arresting officer had a suspicion that the applicant was a terrorist and that the arrest was executed lawfully under Northern Ireland law.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 27 January 1987 and registered on 2 February 1987.

On 7 October 1987 the Commission decided to bring the application to the notice of the respondent Government and to adjourn the case.

On 16 November 1987 the Agent of the respondent Government informed the Commission that the applicant had been killed on 2 April 1987. His lawyer informed the Commission on 9 May 1989 that the applicant's widow, Kathleen Marley, wished to pursue the proceedings.

REASONS FOR THE DECISION

The applicant complained of his arrest and detention under Section 11 of the Northern Ireland (Emergency Provisions) Act 1978. However, the Commission recalls that the successor of a deceased applicant cannot claim a general right that the examination of an application be continued by the Commission (cf. No. 8261/77, *Kofler v. Italy*, Comm. Rep. 9.10.82, D.R. 30 p. 5). The essential point is whether, bearing in mind the nature of the particular application, the

successor can be considered as having a sufficient interest to justify the further examination of the application on his or her behalf.

In the present case, the applicant complained about his detention from 11 November 1986 to 13 November 1986. The Commission considers that such an application is intimately linked to the person of the deceased applicant. His widow cannot claim a sufficient legal interest in the circumstances of the present case to justify such further examination.

The Commission concludes therefore that it is no longer justified to continue the examination of this application, within the meaning of Article 30 para. 1 (c) of the Convention. It further considers that respect for Human Rights as defined in the Convention does not require the continuation of the examination.

For these reasons, the Commission unanimously

DECIDES TO STRIKE THE APPLICATION OFF ITS LIST OF CASES.

Secretary to the Commission

President of the Commission

(H.C. KRÜGER)

(C.A. NØRGAARD)