AS TO THE ADMISSIBILITY OF

Application No. 14310/88
by Margaret MURRAY, Thomas MURRAY,
Mark MURRAY, Alana MURRAY,
Michaela MURRAY and Rossina MURRAY
against the United Kingdom

The European Commission of Human Rights sitting in private on
10 December 1991, the following members being present:

MM.C.A. NØRGAARD, President
J.A. FROWEIN
F. ERMACORA
G. SPERDUTI
E. BUSUTTIL
A. WEITZEL
H.G. SCHERMERS
H. DANELIUS
Mrs.G. H. THUNE
SirBasil HALL
MM.F. MARTINEZ RUIZ
C.L. ROZAKIS
Mrs.J. LIDDY
MM.L. LOUCAIDES
J.-C. GEUS
M.P. PELLONPÄÄ
B. MARXER

Mr. J. RAYMOND, Deputy 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 28 September 1988
by Margaret MURRAY, Thomas MURRAY, Mark MURRAY, Alana MURRAY, Michaela
MURRAY and Rossina MURRAY against the United Kingdom and registered on
24 October 1988 under file No. 14310/88;

Having regard to:

- reports provided for in Rule 47 of the Rules of Procedure of
the Commission;

- the observations submitted by the respondent Government on
5 February 1990 and 22 November 1990 and the observations
in reply submitted by the applicants on 10 April 1990 and
31 October 1990;

- the hearing of the parties on 10 December 1991;

Having deliberated;

Decides as follows:
THE FACTS

The applicants are Irish citizens, members of the same family,
and reside in Belfast, Northern Ireland. The first applicant was born
in 1938 and she is a housewife. The second applicant, born in 1935,
is her husband. The third applicant, born in 1964, is her son. The
fourth and fifth applicants are her eldest twin daughters, born in
1967. The sixth applicant is her youngest daughter, born in 1970. The
applicants are represented before the Commission by Messrs. Madden and
Finucane, Solicitors, Belfast.

The facts of the present case, as submitted by the parties, may be summarised as follows.

A. The particular circumstances of the case

The first applicant was arrested at her home on 26 July 1982 by a member of the armed forces under Section 14 of the Northern Ireland (Emergency Provisions) Act 1978. She was arrested at 07.00 hours and detained continuously until 09.40 hours when she was released without charge. The arrest operation was carried out by Corporal D., a member of the Women's Royal Army Corps. Corporal D. had attended an army briefing at 06.30 hours that day at which she was told that the first applicant was suspected of involvement in the collection of money for the purchase of arms for the IRA in the United States of America, an offence under Section 21 of the 1978 Act and Section 10 of the Prevention of Terrorism (Temporary Provisions) Act 1976. On 22 June 1982 two of the first applicant's brothers had been convicted of arms offences in the United States of America connected with the purchase of weapons for the IRA. The Corporal was instructed to go to the first applicant's house to arrest her and to bring her back to the army screening centre at Springfield Road in Belfast.

Corporal D., accompanied by four armed soldiers, entered the first applicant's house at 07.00 hours and asked her to get dressed. Corporal D. went upstairs and told the other applicants to get up and assemble in the living room.

The soldiers did not search the contents of the house but recorded details concerning the interior of the home and personal details concerning the applicants.

At 07.30 hours, when the first applicant came downstairs, Corporal D. stated, "As a member of Her Majesty's Forces I arrest you". On being asked by the first applicant under what Section, Corporal D. replied, "Section 14".

The first applicant was then driven in a landrover to the army screening centre at Springfield Road. She was escorted into a building and asked to sit for a short time in a small cubicle. At 08.05 hours she was taken before Sergeant B. who asked her questions with a view to completing a standard form to record, inter alia, details of the arrest and screening procedure and personal details. The first applicant refused to answer any questions save to give her name. The interview ended four minutes later. She was then examined by a medical orderly and again refused to answer any questions.

At 08.20 hours she was taken to an interview room and questioned by a soldier in civilian clothes in the presence of Corporal D. She was asked, inter alia, about her brothers and her contacts with them, but she still refused to answer questions. She was photographed

without her knowledge or consent. This photograph and the personal details about her, her family and her home were kept on record. She was released at 09.45 hours.

The standard record form, called the screening proforma, recorded the first applicant's name, address, nationality, marital and tenancy status, the chronological details about her arrest, the names of the army officers involved, the names of the other applicants and their relationship to her, her physique and her attitude to the interview. Nothing was recorded under the heading "suspected offence". It noted that the applicant had refused to answer questions and that no information had been gained from the interview.

The applicant subsequently brought an action for false imprisonment against the Ministry of Defence. Her action before the High Court was dismissed on 25 October 1985. An appeal to the Court

of Appeal was also dismissed on 20 February 1987. The applicant was granted leave by the Court of Appeal to appeal to the House of Lords. This appeal was rejected in a decision of 25 May 1988.

The first applicant had submitted before the courts that since she was only lawfully arrested at 07.30 hours she had been unlawfully detained between 07.00 and 07.30 hours. The House of Lords found that a person is arrested from the moment he is subject to restraint and that the first applicant was therefore under arrest from the moment that Corporal D. identified her on entering the house at 07.00 hours. It made no difference that the words of arrest were communicated to the applicant at 07.30 hours. In this respect Lord Griffiths, who delivered the judgment of the House of Lords, stated as follows:

"... Therefore, the plaintiff submits, the period of detention before arrest was unlawful and the Ministry of Defence liable for the tort of unlawful imprisonment during that period of half an hour whilst she was getting dressed. If the plaintiff had been told she was under arrest the moment she identified herself, it would not have made the slightest difference to the sequence of events before she left the house. It would have been wholly unreasonable to take her off half-clad, to the army centre, and the same half-hour would have elapsed while she gathered herself together and completed her toilet and dressing. It would seem a strange result that in these circumstances, whether or not she has an action for false imprisonment should depend upon whether the words of arrest are spoken on entering or leaving the house, when the practical effect of the difference on the plaintiff is non-existent."

The first applicant had also maintained that the failure to inform her that she was arrested until the soldiers were about to leave the house rendered the arrest unlawful. This submission was also rejected by the House of Lords. Lord Griffiths held as follows:

"It is a feature of the very limited power of arrest contained in Section 14 that a member of the armed forces does not have to tell the arrested person the offence of which he is suspected, for it is specifically provided by Section 14(2) that it is sufficient if he states that he is effecting the arrest as a member of Her Majesty's forces. Corporal D. was carrying out this arrest in accordance with the procedures in which she had been instructed to make a house arrest pursuant to Section 14. This procedure appears to me to be designed to make the arrest with the least risk of injury to those involved including both the soldiers and the occupants of the hosue. When arrests are made on suspicion of involvement with the IRA it would be to close one's eyes to the obvious not to appreciate the risk that the arrest may be forcibly resisted.

The drill the army follow is to enter the house and search every room for occupants. The occupants are all directed to assemble in one room, and when the person the soldiers have come to arrest has been identified and is ready to leave, the formal words of arrest are spoken just before they leave the house. The army do not carry out a search for property in the house and, in my view, they would not be justified in doing so. The power of search is given 'for the purpose of arresting a person', not for a search for incriminating evidence. It is however a proper exercise of the power of search for the purpose of effecting the arrest to search every room for other occupants of the house in case there may be those there who are disposed to resist the arrest. The search cannot be limited solely to looking for the person to be arrested and must also embrace a search whose object is to secure that the arrest should be peaceable. I also regard it as an entirely reasonable precaution that all the occupants of the house should be asked to assemble in one room. As Corporal D.

explained in evidence, this procedure is followed because the soldiers may be distracted by other occupants in the house rushing from one room to another, perhaps in a state of alarm, perhaps for the purpose of raising the alarm and to resist the arrest. In such circumstances a tragic shooting accident might all too easily happen with young, and often relatively inexperienced, armed soldiers operating under conditions of extreme tension. Your Lordships were told that the husband and children either had commenced or were contemplating commencing, actions for false imprisonment arising out of the fact that they were asked to assemble in the living-room for a short period before the plaintiff was taken from the house. That very short period of restraint when they were asked to assemble in the living room was a proper and necessary part of the procedure for effecting the peaceable arrest of the plaintiff. It was a temporary restraint of very short duration imposed not only for the benefit of those effecting the arrest, but also for the protection of the occupants of the house and would be wholly insufficient to found an action for unlawful imprisonment.

It was in my opinion entirely reasonable to delay speaking the words of arrest until the party was about to leave the house. If words of arrest are spoken as soon as the house is entered before any precautions have been taken to search the house and find the other occupants, it seems to me that there is a real risk that the alarm may be raised and an attempt made to resist arrest, not only by those within the house but also by summoning assistance from those in the immediate neighbourhood. When soldiers are employed on the difficult and potentially dangerous task of carrying out a house arrest of a person suspected of an offence in connection with the IRA, it is I think essential that they should have been trained in the drill they are to follow. It would be impracticable and I think potentially dangerous to leave it to the individual discretion of the particular soldier making the arrest to devise his own procedures for carrying out this unfamiliar military function. It is in everyone's best interest that the arrest is peaceably effected and I am satisfied that the procedures adopted by the army are sensible, reasonable and designed to bring about the arrest with the minimum of danger and distress to all concerned. I would however add this rider: that if the suspect, for any reason, refuses to accept the fact of restraint in the house he should be informed forthwith that he is under arrest."

On the question of the reasons for the arrest and suspicion, the lower courts found that Corporal D. had a genuine suspicion that the first applicant was involved in the offence of collecting money in Northern Ireland for arms. She was unable to recollect the questions that had been put to the first applicant during the interview at the army screening centre, but, at first instance, the first applicant was recorded as having accepted that the army interviewer had been interested in the activities of her brothers, who had been convicted in the United States of America on arms charges connected with the Provisional IRA. The Court of Appeal confirmed that the first applicant was clearly suspected of having collected money and that the interviewer had attempted to pursue that suspicion but was unable to make any headway. Lord Justice Gibson delivering the judgment of the Court of Appeal found as follows:

"Corporal D. who was present during the interview had very little recollection of the course of the questions. The only other witness as to the conduct of this interview was the plaintiff. Her account also is sketchy, though in somewhat more detail. What is clear from both witnesses is that the plaintiff was deliberately unhelpful and refused to answer most of the questions. What is certain is that she was asked about her brothers who in the previous month had been convicted of offences

connected with the purchase of firearms in the USA for use by the IRA and for which offences they had been sentenced to terms of 2 and 3 years imprisonment. It is clear that it was for such a purchase that the plaintiff was suspected of having collected money, as she stated the interviewer asked her whether she was in contact with them. There is no doubt, therefore, that the interviewer did attempt to pursue the subject of the suspicion which had been the occasion for her arrest but was unable to made any headway."

The House of Lords upheld this conclusion of the Court of Appeal. Lord Griffiths, delivering the judgment of the House of Lords, noted that Corporal D. had been present at the interview:

"Corporal D. was present at the interview. She was not paying close attention but she gave evidence that she remembered questions about the plaintiff's brothers and questions about money which were obviously directed towards the offences of which the plaintiff was suspected."

The applicants have alleged before the Commission that these factual conclusions cannot be sustained on the evidence in this case. The first applicant claimed that although she realised that the army were interested in her brothers' activities, she had not understood from the interview that she herself was suspected of fund raising for the IRA.

B.The relevant domestic law and practice

The first applicant was arrested under Section 14 of the Northern Ireland (Emergency Provisions) Act 1978 which at the relevant time provided as follows:

"14.-(1) A member of Her Majesty's forces on duty may arrest without warrant, and detain for not more than four hours, a person whom he suspects of committing, having committed or being about to commit any offence.

(2) A person effecting an arrest under this section complies with any rule of law requiring him to state the ground of arrest if he states that he is effecting the arrest as a member of Her Majesty's forces.

(3) For the purpose of arresting a person under this section a member of Her Majesty's forces may enter and search any premises or other place -

(a) where that person is, or

(b) if that person is suspected of being a terrorist or of having committed an offence involving the use or possession of an explosive, explosive substance or firearm, where that person is suspected of being."

A similar provision had been in force since 1973 and had been considered necessary to deal with terrorist activities in two independent reviews (Report of the Diplock Commission 1972 which recommended such a power and a Committee chaired by Lord Gardiner 1974/1975). Following a further independent review in 1983 by Sir George Baker, who concluded on the suspicion question that the addition of a requirement of reasonableness would not in fact make any

difference to the actions of the military, Section 14(1) was amended to empower a member of the armed forces to arrest a person "who he has reasonable grounds to suspect is committing, has committed or is about to commit any offence". The amendment came into force on 15 June 1987 (Section 25 and Schedule 1 of the Northern Ireland (Emergency Provisions) Act 1987).

The scope and exercise of the Section 14 powers were considered by the domestic courts in the proceedings in the present case. These proceedings demonstrate that when the legality of an arrest or detention under Section 14 is challenged (whether by way of habeas corpus or in proceedings for damages for wrongful arrest or false imprisonment), the burden lies on the military to justify their acts and, in particular, to establish the following elements:

(a) compliance with the formal requirements for arrest ;

(b) the genuineness of the suspicion on which the arrest was based ;

(c) that the powers of arrest and detention were not used for any improper purpose such as screening or intelligence-gathering ;

(d) that the power of search was used only to facilitate the arrest and not for the obtaining of incriminating evidence ;

(e) that those responsible for the arrest and detention did not exceed the time reasonably required to reach a decision whether to release the detainee or hand him over to the police.

COMPLAINTS

A. The first applicant

Article 5 of the Convention

The first applicant complains that her detention on 26 July 1982 was not justified under Article 5 para. 1 of the Convention and, in particular, did not satisfy the requirements of Article 5 para. 1 (c) in that:

(a) it was not for the purpose of bringing her before any competent legal authority, and

(b) it was not on reasonable suspicion of having committed an offence.

She also complains that she was not informed promptly of the reasons for her arrest or of any charge against her, contrary to Article 5 para. 2. Section 14 (2) of the 1978 Act specifically provides that a person effecting an arrest under this Section complies with any rule of law requiring him to state the ground of arrest if he merely states that he is effecting the arrest as a member of Her Majesty's armed forces.

She further complains under Article 5 para. 5 that she had no enforceable right to compensation under the law of Northern Ireland.

Article 8

She complains that the manner in which she was treated both in her home and at the screening centre constituted a violation of Article

8 para. 1 of the Convention. In particular she complains about the entry into and search of her home, the recording of personal details concerning herself and her family and the retention of those records, including a photograph of her which was taken without her consent.

Article 13

She complains that there is no effective remedy under the law of Northern Ireland in respect of the alleged breaches of Articles 5 and 8 of the Convention.

B. The other applicants

Article 5

These applicants complain that they were detained in their home between 07.00 hours and 07.30 hours on 26 July 1982 in violation of Article 5 paras. 1, 2 and 5 of the Convention.

Article 8

They complain that the manner in which they were treated at their home amounted to a violation of Article 8 para. 1 of the Convention. They submit that the invasion of the privacy of their home cannot be justified under Article 8 para. 2 by reference to the arrest and detention of the first applicant, which was unlawful under the Convention. These complaints relate in particular to their being required to assemble in one room of their home and the recording of personal details about them and the retention of those records.

Article 13

They complain of a lack of an effective remedy under Northern Irish law in respect of their grievances under Article 5 of the Convention and their grievance under Article 8 insofar as it relates to an invasion of the privacy of their home.

PROCEEDINGS BEFORE THE COMMISSION

The application was introduced on 28 September 1988 and registered on 24 October 1988.

After a preliminary examination of the case by the Rapporteur, the Commission considered the admissibility of the application on 5 September 1989. It decided, pursuant to Rule 42 para. 2 (b) of its Rules of Procedure (former version), to give notice of the application to the respondent Government and to invite the parties to submit their written observations on admissibility and merits. The Government's observations were submitted on 7 February 1990, after an extension of the time limit fixed for that purpose. The applicants replied on 11 April 1990. The applicants withdrew complaints originally made under Article 3 and Article 5 para. 3 of the Convention.

The Commission considered the state of proceedings in the case on 7 September 1990 and decided to invite the parties to submit any comments they had on the significance of the Court's judgment in the case of Fox, Campbell and Hartley for the admissibility of the application (Eur. Court H.R., Fox, Campbell and Hartley judgment of 30 August 1990, Series A no. 182). The applicants submitted their comments on 31 October 1990, which included a submission that the Commission may deem it unnecessary to deal with the first applicant's complaint of a breach of Article 5 para. 1 of the Convention concerning the purpose of her arrest if it anyway finds a breach of that provision, the Government having failed to discharge the burden of proving reasonableness, as required by Article 5 para. 1 (c) of the

Convention. The Government submitted their comments on 24 November 1990, after an extension of the time limit.

On 3 September 1991 the Commission decided, in accordance with Rule 50 (b) of the Rules of Procedure, to invite the parties to submit further observations orally at a hearing. The hearing was held on 10 December 1991, the parties being represented as follows:

For the Government:

Mr. Huw LlewellynAgent
Mr. Nicholas Bratza QCCounsel
Mr. Ronnie WeatherupCounsel

Three Government advisers also attended the hearing.

For the applicants:

Mr. Reginald Weir SCCounsel
Mr. Seamus Treacy BLCounsel
Mr. Peter MaddenSolicitor

THE LAW

1.The first applicant has complained that her detention on 26 July 1982 was in breach of Article 5 para. 1 (Art. 5-1) of the Convention, in particular subsection (c) of that provision, as allegedly it was not for the purpose of bringing her before a competent legal authority or founded on any reasonable suspicion that she had committed any criminal offence. Whilst the arresting officer may have subjectively and honestly suspected the applicant of having committed an offence, that suspicion has not been shown to have been objective or reasonable, the latter degree of suspicion not having been required by the legislation in question (cf. Eur. Court H.R., Fox, Campbell and Hartley judgment of 30 August 1990, Series A no. 182, pp. 16-18, paras. 30-36). She also complained that she was not informed promptly of the reasons for her arrest, contrary to Article 5 para. 2 (Art. 5-2) of the Convention, and that she had no enforceable right to compensation in domestic law for these matters, contrary to Article 5 para. 5 (Art. 5-5) of the Convention.

The relevant provisions of Article 5 (Art. 5) of the Convention read as follows:

"1.Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

c.the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence ...

...

2.Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

...

5.Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

The Government conceded that the first applicant was deprived of her liberty, but they submitted, inter alia, that her detention was lawful and compatible with Article 5 para. 1 (c) (Art. 5-1-c) of the Convention, being based on a de facto reasonable suspicion that the applicant had committed the criminal offence of fund raising for the IRA, connected with her brothers' criminal convictions in the United States of America. They also contended that the reasons for the applicant's arrest must have become clear to her during the course of her interview, which would have been enough to satisfy the requirements of Article 5 para. 2 (Art. 5-2) of the Convention (cf. aforementioned Fox, Campbell and Hartley judgment, pp. 19-20, paras. 40-43). Finally they submitted that as, in their view, there had been no breach of Article 5 paras. 1 or 2 (Art. 5-1, 5-2) in this case, the applicant had no enforceable right to compensation under Article 5 para. 5 (Art. 5-5) of the Convention.

The Commission considers that, in the light of the parties' submissions, these aspects of the case raise complex issues of law and fact under the Convention, the determination of which should depend on an examination of their merits. The Commission concludes, therefore, that these parts of the application are not manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention. No other grounds for declaring them inadmissible have been established.

2.The other applicants also complained that the fact that they were obliged to assemble in one room of the family home and stay there for half an hour on 26 July 1982 amounted to an unlawful deprivation of liberty contrary to Article 5 para. 1 (Art. 5-1) of the Convention, without the attendant guarantees of Article 5 paras. 2 and 5 (Art. 5-2, 5-5) of the Convention. The Government contended that this measure did not amount to a deprivation of liberty.

The Commission agrees with the Government. The Commission notes that the purpose of the applicants' confinement was not to arrest them, but to ensure that the arrest of the first applicant was effected in calm, organised conditions (cf. No. 8819/79, Dec. 19.3.81, D.R. 24 p. 158). Being confined to one room for such a short time in the family home did not, in the circumstances of the present case, amount to a deprivation of liberty within the meaning of Article 5 para. 1 (Art. 5-1) of the Convention (cf. also the light arrest of soldiers in the case of Engel and Others, Eur. Court H.R., Engel and Others judgment of 23 November 1976, pp. 25-26, para. 61). In the absence of any deprivation of liberty there was no infringement of the applicants' rights under Article 5 paras. 1, 2 or 5 (Art. 5-1, 5-2, 5-5) of the Convention, and these aspects of the case must therefore be rejected as being manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

3.The applicants have complained of an injustified interference with their right to respect for private life and their home by virtue of the arrest procedures at their home and the subsequent taking and retention of personal details about them.

Article 8 (Art. 8) of the Convention provides as follows:

"1.Everyone has the right to respect for his private and family life, his home and his correspondence.

2.There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests

of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Government submitted, inter alia, that such measures were necessary for the prevention of crime in the context of the fight against terrorism in Northern Ireland (cf. Nos 8022/77, 8025/77 and 8027/77, McVeigh and Others v. the United Kingdom, Comm. Report 18.3.81, paras. 229-231).

The Commission finds it appropriate to separate the various factual elements of this complaint:

A. Entry into and search of the applicants' home

The Commission considers that, in the light of the parties' submissions, this aspect of the case raises complex issues of law and fact under the Convention, the determination of which should depend on an examination of its merits. The Commission concludes, therefore, that this part of the application is not manifestly ill-founded, within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention. No other grounds for declaring it inadmissible have been established.

B. Taking and retention of personal details

a) The first applicant

The Commission notes that on the screening proforma considerable personal details were recorded and kept about the first applicant and, in particular, that a photograph of her was taken without her knowledge or consent (see p. 4 above). The Commission considers that this aspect of the case also raises complex issues of law and fact requiring a determination on the merits, no grounds for declaring it inadmissible having been established.

b) The other applicants

The Commission observes that very little personal details were recorded or kept about the other applicants other than their names, address and relationship to the first applicant, this being the only information noted about them on the screening proforma. Such information features in several government records on most citizens in Member States of the Council of Europe. Such data retention is an acceptable and normal practice in modern society. In these circumstances the Commission finds that this aspect of the case does not disclose any appearance of an interference with the applicants' right to respect for private life ensured by Article 8 (Art. 8) of the Convention. It follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

4.Finally the applicants have complained that they had no effective domestic remedies for their Convention complaints, contrary to Article 13 (Art. 13) of the Convention which provides as follows:

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

The Government contended that in respect of the applicants' complaints under Article 5 (Art. 5) of the Convention, paragraph 4 of that provision is the lex specialis on remedies and no complaint has been made by the applicants under that provision (cf. aforementioned Fox, Campbell and Hartley judgment, pp. 20-21, paras. 44-45 and para. 47). Moreover all the applicants' Convention claims were unarguable and therefore did not necessitate an Article 13 (Art. 13) remedy (cf. Eur. Court H.R., Boyle and Rice judgment of 27 April 1988, Series A no. 131, p. 23, para. 52).

The Commission finds it appropriate to examine the first applicant's complaint separately from those of the others:

A. The first applicant

The Commission considers that the first applicant's complaint under Article 13 (Art. 13) of the Convention is an integral part of her other complaints, none of which can be deemed inadmissible. Certain aspects of this complaint also raise complex issue of law and fact under the Convention, the determination of which should depend on an examination of its merits, no other grounds for declaring it inadmissible having been established.

B. The other applicants

a) Their complaints under Article 5 (Art. 5) of the Convention

The Commission recalls that, according to the constant case-law of the Convention organs, "Article 13 (Art. 13) cannot reasonably be interpreted so as to require a remedy in domestic law in respect of any supposed grievance under the Convention that an individual may have, no matter how unmeritorious his complaint may be: the grievance must be an arguable one in terms of the Convention" (Eur. Court H.R., Boyle and Rice judgment of 27 April 1988, Series A no. 131, p. 23 para. 52).

The Commission has found the applicants' substantive complaint under Article 5 (Art. 5) of the Convention to be manifestly ill-founded and, in the light of the reasons for this decision, it also finds that the applicants have no arguable claim under Article 5 (Art. 5) warranting an effective domestic remedy pursuant to Article 13 (Art. 13) of the Convention. It follows that this aspect of the case is also manifestly ill-founded, within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

b) Their complaints under Article 8 (Art. 8) of the Convention

Insofar as these applicants complained of a breach of Article 8 (Art. 8) of the Convention in relation to the entry and search of their home, the Commission notes that domestic law provides a remedy for the tort of unlawful trespass to property. Whilst it is true that the applicants would probably have had little prospect of succeeding in an action for damages against the army on this basis, this does not mean that the necessary domestic law structures do not exist. Article 13 (Art. 13) of the Convention is not concerned with the outcome of such procedures, but whether the remedy exists.

Insofar as the applicants complained of the recording and retention of minor personal details about them, the Commission has found this complaint to be manifestly ill-founded. It also finds that in this respect the applicants have no arguable claim under Article 8 (Art. 8) of the Convention warranting an effective domestic remedy pursuant to Article 13 (Art. 13).

It follows that this part of the application is manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

For these reasons, the Commission, by a majority,

DECLARES ADMISSIBLE, without prejudging the merits of the case,
all the first applicant's complaints and the other applicants'
complaints under Article 8 (Art. 8) of the Convention concerning the entry and search of the family home;

DECLARES INADMISSIBLE the remainder of the application.

Secretary to the Commission	President of the Commission
(H.C. KRÜGER)	(C.A. NØRGAARD)