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Human Rights Committee

Communication No. 1964/2010

Views adopted by the Committee at its 111th session (7–25 July 2014)

Submitted by:	Khalifa Fedsi (represented by counsel, Mr. Rachid Mesli, Alkarama for Human Rights)
Alleged victims:	Nasreddine Fedsi and Messaoud Fedsi (sons of the author) and the author himself
State party:	Algeria
Date of communication:	2 July 2010 (initial submission)
Document references:	Special Rapporteur's rule 97 decision, transmitted to the State party on 10 August 2010 (not issued in document form)
Date of adoption of Views:	23 July 2014
Subject matter:	Extrajudicial execution
Substantive issues:	Right to life; prohibition of torture and cruel, inhuman and degrading treatment; right to an effective remedy
Procedural issue:	Exhaustion of domestic remedies
Articles of the Covenant:	Articles 2 (para. 3), 6 (para. 1) and 7
Article of the Optional Protocol:	Article 5 (para. 2 (b))

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Annex

Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (111th session)

concerning

Communication No. 1964/2010*

Submitted by:	Khalifa Fedsi (represented by counsel, Mr. Rachid Mesli, Alkarama for Human Rights)
Alleged victims:	Nasreddine Fedsi and Messaoud Fedsi (sons of the author) and the author himself
State party:	Algeria
Date of communication:	2 July 2010 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 23 July 2014,

Having concluded its consideration of communication No. 1964/2010, submitted to the Human Rights Committee by Khalifa Fedsi under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the author of the communication and the State party,

Adopts the following:

Views under article 5, paragraph 4, of the Optional Protocol

1.1 The author of the communication, which is dated 2 July 2010, is Khalifa Fedsi, who claims that his two sons, Nasreddine Fedsi and Messaoud Fedsi, were the victims of violations by Algeria of articles 6 (para. 1) and 7 of the International Covenant on Civil and Political Rights. The author claims that he himself is the victim of violations of article 2 (para. 3), read in conjunction with articles 6 (para. 1) and 7 of the Covenant. He is represented by counsel, Mr. Rachid Mesli of the NGO Alkarama.

* The following members of the Committee participated in the consideration of the present communication: Mr. Yadh Ben Achour, Ms. Christine Chanet, Mr. Cornelis Flinterman, Mr. Yuji Iwasawa, Mr. Walter Kälin, Ms. Zonke Zanele Majodina, Mr. Gerald L. Neuman, Sir Nigel Rodley, Mr. Víctor Manuel Rodríguez-Rescia, Mr. Fabián Omar Salvioli, Mr. Dheerujlall Seetulsingh, Ms. Anja Seibert-Fohr, Mr. Yuval Shany, Mr. Konstantine Vardzelashvili, Ms. Margo Waterval and Mr. Andrei Paul Zlătescu.

Pursuant to rule 90 of the Committee's rules of procedure, Committee member Mr. Lazhari Bouzid did not take part in the consideration of the present communication.

1.2 On 10 August 2010, the Committee, through its Special Rapporteur on new communications and interim measures, decided not to grant the author protection measures requesting the State party to refrain from taking any criminal or other measure to punish or intimidate the author or members of his family on the grounds of the present communication. On 21 January 2011, the Committee, acting through the Special Rapporteur on new communications and interim measures, decided not to examine the admissibility of the communication separately from the merits.

The facts as submitted by the author

2.1 Nasreddine Fedsi, son of Khalifa Fedsi, was born on 23 September 1974 and lived in the village of Telata in Taher, Jijel *wilaya* (prefecture), where he was engaged in various informal activities. Messaoud Fedsi, his brother, was born on 1 March 1977 and also lived in the village of Telata in Taher. He had no occupation. At 6 a.m. on 19 April 1997, officers of the combined security forces went to the Fedsi family home, where they arrested Nasreddine Fedsi. They then went to a café near the house, where they arrested Messaoud Fedsi. Half an hour before the arrests, the author had been arrested by officers travelling in a vehicle belonging to Taher *daira*.[1] He had been taken to the Telata-Taher road, where he had been released. He had, however, been able to get home in time to witness the arrests of his two sons.

2.2 According to the information gathered by the author and his wife from persons who witnessed the executions, the security force officers took the author's two sons to a forest near to the family home where they executed them. The officer who executed the author's two sons was identified as F.M., a high-ranking official in the territorial administration. The day after the execution, the author and his wife went to the site and were able to recover their sons' remains which had been left in the forest. They noted that the bodies had numerous bullet wounds. According to witnesses, several members of the security forces and officials of the local administration took part in the arrest and execution of Nasreddine and Messaoud Fedsi. They included the commanding officer of the Taher brigade of the national gendarmerie, the police commissioner of Taher, the head of Taher *daira* (F.M.) and a member of the Boucherka-Taher local militia (F.B.). Witnesses saw official gendarmerie and police vehicles and the Taher *daira* vehicle both at the scene of the arrest of the author's two sons and at the place of their summary execution. In the death certificates drawn up by the Algerian authorities on 4 September 2006,[2] it was stated that the two brothers "died while serving in the ranks of terrorist groups".

2.3 The author went to the Boucherka-Taher national gendarmerie brigade to lodge a complaint against the officers allegedly responsible for the deaths of his sons, but no action was taken on the case. The author also went repeatedly to the office of the public prosecutor of Taher court. The judicial authority ordered that the deaths be recorded in the civil register, but did not request any investigation into the case or prosecution of the perpetrators. Following this, the head of the Boucherka-Taher gendarmerie brigade, who allegedly took part in the execution, threatened the author with the same fate as his sons if he continued to pursue the case.

The complaint

3.1 The author contends that the State party has violated articles 2 (para. 3), 6 (para. 1) and 7 of the Covenant with regard to Nasreddine and Messaoud Fedsi, as well as article 2

[1] Local territorial administration.

[2] Cf. "Certificates of death while serving in the ranks of terrorist groups" drawn up by an officer of the Taher regional brigade of the national gendarmerie.

(para. 3) read in conjunction with articles 6 (para. 1) and 7 of the Covenant with regard to the author and his family.

3.2 The author alleges a violation of the right to life of his two sons following their intentional summary execution by public officials from the highest authority in the local administration. He recalls that the right to life guaranteed by article 6 (para. 1) is an inalienable right from which, in accordance with article 4 (para. 2) of the Covenant, no derogation is allowed. He notes that the summary execution of his sons took place against a background of systematic and widespread human rights violations by the Algerian authorities during the internal crisis that country went through in the 1990s after the military command's decision of 11 January 1992 to annul the legislative elections in which the Front Islamique du Salut (Islamic Salvation Front) (FIS) had won the first round. Although initially the Algerian security forces mainly targeted FIS members, from 1993 onwards they began increasingly to attack civilians and from 1996 onwards large-scale massacres took place. Summary executions by public officials then became common practice, and were used instead of arrests and as a means of punishment. The author recalls that, although the tenacity of the victims' families forced the Algerian Government to accept enforced disappearances as an issue from 2000, it has not yet been obliged to respond to the allegations concerning specific instances of extrajudicial, summary or arbitrary executions, as in the present case. According to the author, the summary executions of his sons therefore constitute not only a violation of article 6 (para. 1) of the Covenant, but also a crime against humanity.[3]

3.3 The author also submits that his two sons were victims of a violation of their right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, in accordance with article 7 of the Covenant, since, during the period between their arrest and their execution, they could not have been unaware of the fate that awaited them. According to the author, the anguish and suffering thus caused constitute a violation of this provision of the Covenant.

3.4 The author alleges a violation of article 2 (para. 3) read in conjunction with articles 6 (para. 1) and 7 of the Covenant in respect of himself as well as of his two sons. He recalls that the Algerian authorities have not carried out any inquiry to shed light on the executions, despite the complaint that he lodged with the Boucherka-Taher brigade of the national gendarmerie and the many approaches he made to the public prosecutor of Taher to inform him of the facts and try to have an investigation opened. According to the author, the Algerian authorities have failed to fulfil either their international obligations or their obligations under national legislation to investigate allegations of serious violations of human rights. In this respect, the author recalls that he halted his efforts following threats made against him, but that article 63 of the Code of Criminal Procedure provides that, when an offence is brought to their attention, officers of the criminal investigation service, acting either on the instructions of the public prosecutor or on their own initiative, shall undertake preliminary inquiries. The author also recalls the Views of the Committee according to which: (i) the State party has a duty to carry out thorough investigations of alleged violations of human rights, particularly enforced disappearances or extrajudicial executions;[4] (ii) if the State party does not conduct investigations into allegations of human rights violations, this may constitute a separate breach of article 2 (para. 3) of the Covenant.[5]

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3 In this regard, the author cites the Human Rights Committee general comment No. 31 on the nature of the general legal obligation imposed on States parties to the Covenant, para. 18.

4 The author refers to the Committee's report (A/63/40), Vol. I, para. 76.

5 The author refers to the Committee's concluding observations relating to the third periodic report of Algeria, adopted on 1 November 2007 (CCPR/C/DZA/CO/3), para. 12.

3.5 Finally, the author explains that all his appeals to the military and judicial authorities have proved futile and ineffective and that, since the promulgation of Ordinance No. 06-01 of 27 February 2006 implementing the Charter for Peace and National Reconciliation, there are no longer any remedies available. The Charter prohibits, under penalty of criminal prosecution, the initiation of any proceedings, whether individual or joint, against members of Algeria’s defence and security forces for actions undertaken to protect persons and property, safeguard the nation and preserve its institutions. The author refers to the Committee’s jurisprudence, which requires only that he exhaust effective, useful and available domestic remedies for his communication to be considered admissible by the Committee. In the present case, the author believes that, in the absence of effective and available domestic remedies, he is not required to risk criminal prosecution and that the Committee may declare his complaint admissible.

State party’s observations on admissibility

4.1 In a note of 11 January 2011, the State party contested the admissibility of the present communication. It submits that, as in the case of previous communications concerning cases of enforced disappearances attributed to public officials in the years 1993–1998, the present communication should be examined taking “a comprehensive approach”, rather than an individual approach, and should therefore be declared inadmissible. The State party recalls that the period in question is covered by the provisions of the Charter for Peace and National Reconciliation. It is of the opinion that consideration of these cases on an individual basis prevents the facts being set in the context of the sociopolitical circumstances and security conditions that prevailed in the country during this period of crisis, which was marked by the spread of terrorism following calls for civil disobedience, subversive violence and armed terrorist action against the republican State, its constitutional institutions and its symbols. It argues that it was not a case of civil war, since a multitude of armed groups emerged, backed by religious fundamentalism, engaging in a pseudo-jihad and terrorizing the civilian population, including by indulging in racketeering, robbery, rape and mass killings. It is against this background that, on 13 February 1992, the Algerian Government gave notice to the United Nations Secretariat of its proclamation of a state of emergency, in accordance with article 4 (para. 3) of the Covenant.

4.2 The State party emphasizes that, during this period, armed groups were carrying out attacks on an almost daily basis, which reduced the public authorities’ capacity to control the security situation. In some areas, the civilian population found it difficult to distinguish between counter-terrorism operations and the maintenance of order by the armed forces and the security services, and the attacks and the exactions committed by terrorist groups. According to the State party, the violations of fundamental rights alleged in the present communication must be considered in that global context.

4.3 The State party maintains that the Charter for Peace and National Reconciliation is the internal national mechanism for dealing with the crisis. It was approved by the sovereign people in a referendum with a view to restoring peace and social cohesion, and healing the wounds suffered by the civilian populations as a result of terrorism, in conformity with the purposes and principles of the United Nations. The State party maintains that, by virtue of the principle of the inalienability of peace, the Committee should support and consolidate this peace and encourage national reconciliation towards the strengthening of the rule of law.

4.4 The State party then emphasizes the nature, principles and content of the Charter for Peace and National Reconciliation and its implementing texts. As part of this effort to achieve national reconciliation, the implementing Ordinance of the Charter prescribes legal measures for the discontinuance of criminal proceedings and the commutation or remission of sentences for any person who has been found guilty of acts of terrorism or who is benefiting from the provisions of the legislation on civil dissent, except for persons who have committed or been accomplices in mass killings, rapes or bombings in public places. The Ordinance also introduces a procedure for filing an official finding of presumed death, which entitles beneficiaries to receive compensation as victims of the "national tragedy". Social and economic measures have also been put in place, including employment placement assistance and compensation for all persons considered victims of the "national tragedy". Finally, the Ordinance prescribes political measures, such as a ban on engaging in political activity for any person who exploited religion in the past in a way that contributed to the "national tragedy", and establishes the inadmissibility of any proceedings, whether individual or joint, brought against members of Algeria's defence and security forces for actions undertaken to protect persons and property, safeguard the nation and preserve its institutions. The State party insists that the proclamation of the Charter for Peace and National Reconciliation reflects a desire to avoid confrontation in the courts, media outpourings and political score-settling. National reconciliation within the meaning of the Charter is neither an individual process nor an excuse for forgiving in a context of forgetting and impunity, but rather a general democratic response. The State party is therefore of the view that the author's allegations are covered by the comprehensive domestic settlement mechanism provided for in the Charter.

4.5 The State party further argues that the author has not exhausted all domestic remedies and that the communication is therefore inadmissible. It stresses the importance of distinguishing between representations to the political or administrative authorities, non-judicial remedies pursued through advisory or mediation bodies, and judicial remedies pursued through the competent courts of justice. The State party observes that, as may be seen from the author's complaint, he has written letters to political and administrative authorities and petitioned advisory and mediation bodies as well as representatives of the prosecution service (chief prosecutors and public prosecutors), but has not actually initiated legal proceedings and seen them through to their conclusion. Of all these authorities, only the representatives of the prosecution service are authorized by law to open a preliminary inquiry and refer a case to the investigating judge for it to be heard within the framework of a judicial investigation. In the Algerian legal system, it is the public prosecutor who receives complaints and institutes criminal proceedings where warranted. However, in order to protect the rights of victims and their beneficiaries, the Code of Criminal Procedure authorizes them to sue for damages by filing a complaint with the investigating judge. This option allows the victim or his or her beneficiaries to compensate for any shortcomings or inaction on the part of the public prosecutor by initiating criminal proceedings, even where the representative of the prosecution service has decided to close the case or not to proceed with a complaint. In this case, it is the victim, not the prosecutor, who initiates criminal proceedings by bringing the matter before the investigating judge, who is then obliged to investigate the allegations made in the complaint. The State party notes that the author did not make use of the remedy provided for by articles 72 and 73 of the Code of Criminal Procedure although it is simple, quick and used frequently by victims complaining of unlawful acts.

4.6 The State party underlines that the author cannot invoke Ordinance No. 06-01 of 27 February 2006 and its implementing legislation as a pretext for having failed to institute the legal proceedings available to him. The State party recalls the Committee's jurisprudence to the effect that a person's subjective belief in, or presumption of, the futility of a remedy does not exempt that person from the requirement to exhaust all domestic remedies.[6]

[6] The State party cites, in particular, communications Nos. 210/1986 and 225/1987, *Pratt and Morgan v. Jamaica*, Views adopted on 6 April 1989.

4.7 The State party asks the Committee to take into account the sociopolitical circumstances and security conditions in which the facts and situations described by the author occurred; to find that the author failed to exhaust all domestic remedies; to recognize that the authorities of the State party have established a comprehensive national mechanism for processing and settling the cases referred to in these communications through a policy of peace and national reconciliation that is consistent with the principles of the Charter of the United Nations and subsequent covenants and conventions; to find the communication inadmissible; and to request that the author seek an alternative remedy.

Author's comments on the State party's observations

5.1 On 19 March 2012, the author submitted his comments on the State party's observations on admissibility.

5.2 The author refers to the State party's claim that the Committee cannot consider individual communications concerning cases of serious human rights violations such as violations of the right to life, since these should be addressed within a global framework because an individual approach does not set them within the sociopolitical circumstances and security conditions in which they occurred. The author notes that it is not for the State party to determine according to its own criteria whether it is appropriate for the Committee to take up a specific case. He points out that the State party has recognized the competence of the Committee to consider individual communications and that only the Committee can determine which communications are admissible under the Covenant and the Optional Protocol.

5.3 The author underlines that the State party cannot invoke its proclamation of a state of emergency on 9 February 1992 to challenge the admissibility of the present communication. Article 4 of the Covenant does allow for derogations by the State party from certain provisions of the Covenant during the state of emergency, but this does not affect the exercise of rights under the Optional Protocol.

5.4 The author furthermore refutes the State party's argument that internal remedies have not been exhausted because he has not sued for damages by filing a complaint with the investigating judge, in accordance with the Code of Criminal Procedure. He recalls in this regard that this procedure, if it is not to be declared inadmissible, is subject to the payment of a guarantee to cover "the costs of the proceedings", the amount of which is set arbitrarily by the investigating judge,[7] thus making the procedure a deterrent to the persons concerned who, furthermore, have no guarantee that it will actually result in proceedings being initiated. The author underlines that, in criminal cases, the prosecutor's office is legally obliged to open an investigation as soon as it is informed of the facts, even if no complaint is lodged. In the present case, the author lodged a complaint with the gendarmerie against the alleged perpetrator of the execution of his two sons and he himself directly approached the judicial authorities. Nevertheless, no investigation was initiated and no action was taken in respect of the author's complaint. Indeed, no remedy was found to be available because of the refusal of the prosecutor's office to investigate a case that involved public officials.

5.5 The author recalls the Committee's jurisprudence according to which suing for damages by filing a complaint is not a necessary condition for exhausting domestic remedies in cases of alleged serious violations of human rights, as in this case of summary executions. He quotes the Committee's jurisprudence that "the State party has a duty not only to carry out thorough investigations of alleged violations of human rights, particularly enforced disappearances or violations of the right to life, but also to prosecute, try and

[7] Article 75 of the Code of Criminal Procedure.

punish anyone held to be responsible for such violations. To sue for damages for offences as serious as those alleged in the present case cannot be considered a substitute for the charges that should be brought by the public prosecutor”.[8]

5.6 Lastly, the author recalls that Ordinance No. 06-01 of 27 February 2006 implementing the Charter for Peace and National Reconciliation put an end, once and for all, to any possibility of bringing a civil or criminal case before the Algerian courts for all the crimes committed by the security forces during the civil war. He notes that the treaty bodies are of the opinion that this legislation promotes impunity, infringes the right to an effective remedy and is not compatible with the Covenant.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 The Committee recalls that the joinder of admissibility and merits, in conformity with the decision of the Special Rapporteur (see para. 1.2 above), does not preclude the two matters being considered separately. Before considering any claim contained in a communication, the Human Rights Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

6.2 The Committee has ascertained, as it must under article 5, paragraph 2 (a), of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee notes that, in the State party’s view, the author has not exhausted domestic remedies, since he has not brought the matter before the investigating judge and sued for damages in criminal proceedings under articles 72 and 73 of the Code of Criminal Procedure. The Committee also notes that, according to the State party, the author has written letters to political and administrative authorities and has petitioned representatives of the prosecution service (the public prosecutor), but has not, strictly speaking, initiated legal action and seen it through to its conclusion by availing himself of all available remedies of appeal and cassation. The Committee also takes note of the author’s argument that he lodged a complaint with the national gendarmerie and also contacted the prosecutor of the court of Taher. At no time did any of these authorities conduct an investigation into the alleged violations. Lastly, the Committee notes that, according to the author, article 46 of Ordinance No. 06-01 penalizes any person who files a complaint pertaining to actions covered by article 45 thereof.

6.4 The Committee recalls that the State party has a duty not only to carry out thorough investigations of alleged violations of human rights brought to the attention of its authorities, particularly violations of the right to life, but also to prosecute, try and punish anyone held to be responsible for such violations.[9] Although the author contacted the competent authorities repeatedly regarding the execution of his two sons, the State party failed to conduct a thorough and effective investigation into these crimes, despite the fact that serious allegations of extrajudicial executions were involved. The State party has also failed to provide evidence that an effective remedy is available, since Ordinance No. 06-01 continues to be applied. Recalling its jurisprudence, the Committee considers that to sue for

[8] Communication No. 1588/2007, *Benaziza v. Algeria*, Views adopted on 26 July 2010, para. 8.3.

[9] See, inter alia, communication No. 1779/2008, *Mezine v. Algeria*, Views adopted on 25 October 2012, para. 7.4; communication No. 1781/2008, *Berzig v. Algeria*, Views adopted on 31 October 2011, para. 7.4; communication No. 1905/2009, *Khirani v. Algeria*, Views adopted on 26 March 2012, para. 6.4; and communication No. 1791/2008, *Boudjemai v. Algeria*, Views adopted on 22 March 2013, para. 7.4.

damages for offences as serious as those alleged in the present case cannot be considered a substitute for the charges that should be brought by the public prosecutor.[10] Moreover, given the vague wording of articles 45 and 46 of the Ordinance, and in the absence of satisfactory information from the State party about their interpretation and actual enforcement, the author's fears about the effectiveness of filing a complaint are reasonable. The Committee therefore concludes that article 5, paragraph 2 (b), of the Optional Protocol is not an obstacle to the admissibility of the communication.

6.5 The Committee considers that the author has sufficiently substantiated his claims insofar as they raise issues under articles 6 (para. 1) and 7 of the Covenant with regard to his two sons and article 2 (para. 3) read in conjunction with articles 6 (para. 1) and 7 of the Covenant with regard to the author, and therefore proceeds to consider the communication on the merits.

Consideration of the merits

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it by the parties, as required under article 5, paragraph 1, of the Optional Protocol.

7.2 The State party submitted collective and general observations in response to serious allegations by the author, and has been content to argue that communications incriminating public officials, or persons acting under the authority of government agencies, in cases of extrajudicial executions between 1993 and 1998 should be considered within the context of the sociopolitical circumstances and security conditions that prevailed in the country during a period when the Government was struggling to combat terrorism. The Committee refers to its jurisprudence and recalls that the State party may not invoke the provisions of the Charter for Peace and National Reconciliation against persons who invoke provisions of the Covenant or who have submitted or may submit communications to the Committee. The Covenant requires the State party to concern itself with the fate of every individual and to treat every individual with respect for the inherent dignity of the human person. Ordinance No. 06-01, without the amendments recommended by the Committee, is in this case a contributing factor in impunity and therefore cannot, as it currently stands, be considered compatible with the Covenant.

7.3 The Committee notes that the State party has not replied to the author's claims concerning the merits of the case. It recalls its jurisprudence[11] according to which the burden of proof should not rest solely on the author of a communication, especially given that the author and the State party do not always have the same degree of access to evidence and that often only the State party is in possession of the necessary information. It is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has a duty to investigate in good faith all allegations of violations of the Covenant made against it and its representatives and to provide the Committee with whatever information is available to it.[12] In the absence of explanations from the State party in this respect, due weight must be given to the author's allegations, provided they have been sufficiently substantiated.

7.4 The Committee notes that, according to the author, his two sons Nasreddine and Messaoud Fedsi were arrested at around 6 a.m. on 19 April 1997 by officers of the combined security forces, and that the author himself witnessed their respective arrests. The

[10] See *Mezine v. Algeria*, para. 7.4; *Benaziza v. Algeria*, para. 8.3; *Berzig v. Algeria*, para. 7.4; and *Khirani v. Algeria*, para. 6.4.

[11] See, inter alia, *Mezine v. Algeria*, para. 8.3; communication No. 1640/2007, *El Abani v. Libyan Arab Jamahiriya*, Views adopted on 26 July 2010, para. 7.4; and *Berzig v. Algeria*, para. 8.3.

[12] See *Mezine v. Algeria*, para. 8.3; and communication No. 1297/2004, *Medjnoune v. Algeria*, Views adopted on 14 July 2006, para. 8.3.

author also states that his two sons were victims of summary execution, shortly after their arrest, in a neighbouring forest where their remains, riddled with bullets, were discovered the next day by the author and his wife. The Committee notes that the State party has produced no evidence refuting this allegation. The Committee therefore concludes that the State party has violated article 6 (para. 1) of the Covenant with regard to Nasreddine and Messaoud Fedsi.

7.5 The author invokes article 2, paragraph 3, of the Covenant, under which States parties are required to ensure access to effective remedies for all individuals whose rights, as recognized in the Covenant, have been violated. The Committee attaches importance to the establishment by States parties of appropriate judicial and administrative mechanisms for addressing complaints of rights violations. It refers to its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, in which it is stated that the failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant. In this case, the author filed a complaint and alerted the competent authorities, including the national gendarmerie and the prosecutor of the court of Taher, to the execution of his sons but all these efforts were in vain, and the State party never conducted a thorough and rigorous investigation into the executions. Furthermore, the absence of the legal right to undertake judicial proceedings since the promulgation of Ordinance No. 06-01 implementing the Charter for Peace and National Reconciliation continues to deprive the author and his family of any access to an effective remedy, since the Ordinance prohibits, on pain of imprisonment, the initiation of legal proceedings to shed light on the most serious crimes, such as extrajudicial executions.[13] The Committee finds that the facts before it reveal a violation of article 2 (para. 3) read in conjunction with article 6 (para. 1) of the Covenant with regard to the author.

7.6 In light of the above, the Committee will not consider separately the claims based on the violation of article 7 read alone and in conjunction with article 2 (para. 3) of the Covenant.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the information before it discloses violations by the State party of article 6 (para. 1) with regard to Nasreddine and Messaoud Fedsi, and of article 2 (para. 3) read in conjunction with article 6 (para. 1) with regard to the author in that the latter was not able to access an effective remedy in relation to the death of his sons.

9. In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the author and his family with an effective remedy, including by: (a) conducting a thorough and effective investigation into the executions of Nasreddine and Messaoud Fedsi; (b) providing the author and his family with detailed information about the results of its investigation; (c) prosecuting, trying and punishing those responsible for the violations committed; and (d) providing adequate compensation to the author for the violations suffered. Notwithstanding the terms of Ordinance No. 06-01, the State party should ensure that it does not impede enjoyment of the right to an effective remedy for crimes such as torture, extrajudicial executions and enforced disappearances. The State party is also under an obligation to prevent similar violations in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there was a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the

[13] CCPR/C/DZA/CO/3, para. 7.

rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official languages of the State party.