

ALGERIA

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR, A/61/40 vol. I (2006)

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CHAPTER VI FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

227. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

228. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

229. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

230. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

231. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

232. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2006, in relation to Views in which the

Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

233. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/60/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Algeria (4)	992/2001, <i>Bousroual</i> A/61/40				X	X
	1085/2002, <i>Taright</i> A/61/40	Not due				
	1196/2003, <i>Boucherf</i> A/61/40				X	X
	1297/2004, <i>Medjnoune</i> A/61/40	Not due				
...						

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

213. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

214. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 452 Views out of the 570 Views adopted since 1979 concluded that there had been a violation of the Covenant.

215. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or only relate to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

216. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's Views.

217. In many cases, the Committee secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

218. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2007, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries

convey an idea of the difficulties in categorizing follow-up replies.

219. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/61/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
Algeria (9)	992/2001, <i>Bousroual</i> A/61/40				X	X
	1172/2003, <i>Madani</i> A/62/40					
	1085/2002, <i>Taright</i> A/61/40	Not due			X	
	1173/2003, <i>Benhadj</i> A/62/40	Not due				
	1196/2003, <i>Boucherf</i> A/61/40					X
	1297/2004, <i>Medjnoune</i> A/61/40				X	
	1327/2004, <i>Grioua</i> A/62/40	Not due				
	1328/2004, <i>Kimouche</i> A/62/40	Not due				
	1439/2005, <i>Aber</i> A/62/40	Not due				
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CCPR, CCPR/C/SR.2480 (2007)

HUMAN RIGHTS COMMITTEE

Ninetieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 2480th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 26 July 2007, at 3 p.m.

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FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL (agenda item 7)

Report of the Special Rapporteur for follow-up on Views (CCPR/C/90/R.4, distributed in the meeting room in English only)

6. The CHAIRPERSON invited the Special Rapporteur to present his report.

7. Mr. SHEARER (Special Rapporteur for follow-up on Views) said that the report covered communications for which the Committee had received information between its eighty ninth session (12-30 March 2007) and its ninetieth session (9-27 July 2007). In the Medjnoune Malik v. Algeria case (communication No. 1297/2004), the author had informed the Committee that he was still waiting to be brought before a judge. On 21 May 2007, the author's observations had been sent to the State party for comment; the State party had been given two months to reply but it had still not done so. He therefore suggested that the State party should be reminded of its obligations under the Covenant, particularly since, after eight years of detention, the author still had not been tried. In Boucherf v. Algeria (communication No. 1196/2003), the author, whose son had disappeared after having been arbitrarily arrested, had informed the Committee on 30 March 2006 that no investigation had been carried out to find him and that no criminal proceedings had been brought against those responsible for her son's disappearance. The author's submission had been sent to the State party on 14 June 2007. As the two-month deadline for the State party to respond had not yet expired, he suggested that the Committee should wait before taking any further action.

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19. The CHAIRPERSON thanked the Special Rapporteur for his report on a very important aspect of the Committee's work. If he heard no objection, he would take it that the Committee wished to adopt the report.

20. It was so decided.

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CCPR, A/62/40 vol. II (2007)

Annex IX

FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/61/40).

State party	ALGERIA
Case	Medjnoune Malik, 1297/2004
Views adopted on	14 June 2006
Issues and violations found	Arbitrary and unlawful arrest and detention, incommunicado detention, trial undue delay, failure inform him of charges against him - Articles 7, 9, paragraphs 1, 2 and 3; and 14, paragraphs 3 (a) and (c).
Remedy recommended	To bring the author immediately before a judge to answer the charges against him or to release him, to conduct a full and thorough investigation into the incommunicado detention and treatment suffered by him since 28 September 1999, and to initiate criminal proceedings against the persons alleged to be responsible for those violations, in particular, the ill-treatment ... appropriate compensation.
Due date for State party response	27 October 2006
Date of reply	None
State party response	None
Author's response	On 9 April 2007, the author informed the Committee that the State party had failed to implement its Views. Even since its Views the author's case was brought before the Cour de Tizi-Ouzou on two occasions without being heard. In addition, an individual living in Tizi-Ouzou claims to have been threatened by the judicial police to give false testimony against the author. This individual along with another (his son) claim to have been previously tortured in February and March 2002 for refusing to give evidence against the author i.e. to say that they saw him in

the area where the victim was shot. The first individual was later sentenced to three years imprisonment on 21 March 2004 for belonging to a terrorist group and the other acquitted whereupon he fled to France where he was given refugee status.

Case	Boucherf, 1196/2003
Views adopted on	30 March 2006
Issues and violations found	Disappearance, arbitrary and unlawful arrest - Articles 7 and 9 (re. the author's son) and 7 (re. the author, in conjunction with a violation of article 2, paragraph 3.
Remedy recommended	An effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's son, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the author and her family for the violations suffered by the author's son ... to prosecute criminally, try and punish those held responsible for such violations ... to take measures to prevent similar violations in the future. The Committee associates itself with the request made by the Special Rapporteur on new communications and interim measures dated 23 September 2005 (see paragraph 1.2) and reiterates that the State party should not invoke the provisions of the draft amnesty law (<i>Projet de Charte pour la Paix et la Réconciliation Nationale</i>) against individuals who invoke the provisions of the Covenant or have submitted or may submit communications to the Committee.
Due date for State party response	6 July 2006
Date of reply	None
State party response	None
Author's response	On 30 March 2006, the author's mother informed the Committee that one year since its Views were adopted, the State party has made no effort to implement them: no investigation has been carried out and no criminal prosecution/s made. Contradictory information has been provided by the State party to the author's mother. Firstly, she was told that the author had not disappeared and then on 14 July 2004 she received an official notification that he had disappeared, without any explanation. As no investigation has taken place and having received information herself from a

witness that her son had died in prison as a result of torture, she is not satisfied with the State party's current explanation that he has disappeared. She may seek compensation on the basis of the official notification of disappearance. However, the receipt of such compensation is subject to her future silence on the matter pursuant to the Amnesty Law (*Charte pour la Paix et la Réconciliation Nationale*). She objects to this law inter alia as it results in impunity as well as much distress for the disappeared person's family and in certain cases is not even granted on the grounds that the spouse has an income. Such compensation under such a condition cannot be considered "appropriate" under international law.

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CCPR, CCPR/C/SR.2533 (2008)

Human Rights Committee
Ninety-second session

Summary record of the 2533rd meeting
Held at Headquarters, New York,
on Wednesday, 2 April 2008, at 11 a.m.

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Progress report of the Special Rapporteur for follow-up on Views (CCPR/C/92/R.5)

34 Mr. Shearer (Special Rapporteur for follow-up on Views) introduced his progress report (CCPR/C/92/R.5), which compiled information received since the ninety-first session of the Committee.

35. He noted, in the case of *Medjnoune v. Algeria* (Communication No. 1297/2004), that the author had in fact ended his hunger strike after receiving the visit of the procureur général, but was still awaiting a date to be set for his hearing.

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42. *The recommendations contained in the progress report of the Special Rapporteur for follow-up on Views, as amended, were approved.*

The meeting rose at 1.05 p.m.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

187. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

188. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

189. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

190. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

191. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

192. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2008, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

193. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

Algeria (9)	992/20001, <i>Bousroual</i> A/61/40				X	
	1172/2003, <i>Madani</i> A/62/40				X	
	1085/2002, <i>Taright</i> A/61/40				X	
	1173/2003, <i>Benhadj</i> A/62/40				X	
	1196/2003, <i>Boucherf</i> A/61/40				X	
	1297/2004, <i>Medjnoune</i> A/61/40				X A/63/40	
	1327/2004, <i>Grioua</i> A/62/40				X	
	1328/2004, <i>Kimouche</i> A/62/40				X	
	1439/2005, <i>Aber</i> A/62/40				X	
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Annex VII

FOLLOW UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/62/40).

State party	ALGERIA
Case	Medjnoune, 1297/2004
Views adopted on	14 July 2006
Issues and violations found	Arbitrary and unlawful arrest and detention, incommunicado detention, trial undue delay, failure to inform him of charges against him - articles 7, 9, paragraphs 1, 2 and 3, and 14, paragraph 3 (a) and (c).
Remedy recommended	An effective remedy, which includes bringing Malik Medjnoune immediately before a judge to answer the charges against him or to release him, conducting a full and thorough investigation into the incommunicado detention and treatment suffered by Malik Medjnoune since 28 September 1999, and initiating criminal proceedings against the persons alleged to be responsible for those violations, in particular the ill-treatment. The State party is also required to provide appropriate compensation to Malik Medjnoune for the violations.
Due date for State party response	27 October 2006
State party response	None
Author's comments	On 27 February 2008, the author submitted that the State party had not implemented the Views. In light of the fact that the author's case had still not been heard, he began a hunger strike on 25 February 2008. The <i>procureur général</i> visited him in prison to encourage him to end his strike and stated that although he could not fix a date for a hearing himself he would contact the

“appropriate authorities”. In the author's view, according to domestic law, the *procureur général* is the only person who can request the president of the criminal court to list a case for hearing.

Committee's Decision The Committee considers the dialogue ongoing.

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VI. FOLLOW UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

230. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up on Views to this effect. Ms. Ruth Wedgwood has been the Special Rapporteur since July 2009 (ninety-sixth session).

231. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 543 Views out of the 681 Views adopted since 1979 concluded that there had been a violation of the Covenant.

232. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

233. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

234. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

235. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to the ninety-sixth session (13-31 July 2009), in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

236. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/63/40) is set out in annex IX to volume II of the present annual report.

Algeria (10)	992/2001, <i>Bousroual</i> A/61/40				X	
	1172/2003, <i>Madani</i> A/62/40				X	
	1085/2002, <i>Taright</i> A/61/40				X	
	1173/2003, <i>Benhadj</i> A/62/40				X	
	1196/2003, <i>Boucherf</i> A/61/40				X A/64/40	
	1297/2004, <i>Medjnoune</i> A/61/40				X A/63/40	
	1327/2004, <i>Grioua</i> A/62/40				X	
	1328/2004, <i>Kimouche</i> A/62/40				X	

	1439/2005, <i>Aber</i> A/62/40				X	
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	1495/2006, <i>Madaoui</i> A/64/40				X	
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A/64/40 vol. II (2009)

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Annex IX

Follow-up of the Human Rights Committee on individual communications under the Optional Protocol to the International Covenant on Civil and Political Rights

This report sets out all information provided by States parties and authors or their counsel since the last annual report (A/63/40).

State party	Algeria
Case	<i>Boucherf, 1196/2003</i>
Views adopted on	30 August 2006
Issues and violations found	Disappearance, arbitrary arrest and detention - articles 7 and 9 of the Covenant in relation to the author's son, and article 7 in relation to the author, in conjunction with a violation of article 2, paragraph 3
Remedy recommended	An effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's son, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the author and her family for the violations suffered by the author's son. The State party is also under a duty to prosecute criminally, try and punish those held responsible for such violations. The State party is also under an obligation to take measures to prevent similar violations in the future. The Committee recalls the request made by the Special Rapporteur on New Communications and Interim Measures dated 23 September 2005 (see paragraph 1.2) and reiterates that the State party should not invoke the provisions of the draft amnesty law (Projet de Charte pour la Paix et la Réconciliation Nationale) against individuals who invoke the provisions of the Covenant or have submitted or may submit communications to the Committee.
Due date for State party response	39307
Date of State party response	None

State party response

None

Author's comments

On 30 March 2006, the author's mother had informed the Committee that since its Views were adopted, the State party had made no effort to implement them: no investigation had been carried out and no criminal prosecution/s made. Contradictory information was provided by the State party to the author's mother. Firstly, she was told that the author had not disappeared and then on 14 July 2004 she received an official notification that he had disappeared, without any explanation. As no investigation had taken place and having received information herself from a witness that her son had died in prison as a result of torture, she stated that she was not satisfied with the State party's explanation at the time that he had disappeared. She said that she may seek compensation on the basis of the official notification of disappearance. However, the receipt of such compensation would be subject to her future silence on the matter pursuant to the Amnesty Law (*Charte pour la paix et la réconciliation nationale*). She objected to this law, *inter alia*, as it results in impunity as well as much distress for the disappeared person's family and in certain cases is not even granted on the grounds that the spouse has an income. Such compensation under such a condition cannot be considered "appropriate" under international law.

On 11 September 2008, the author informed the Committee that the State party has still failed to implement its Views. Having been demoralised by the lack of an investigation into her son's disappearance and having financial difficulties she began the process under Ordinance 06-01 of the "*Charte pour la paix et la réconciliation nationale*", in accordance with which she subsequently received compensation. However, she has never given up her right to know what happened to her son and where he is buried. On 24 January 2008, she sent several letters to the President, the Chief of Government, several Ministers and the Public Prosecutor of the Hussein Court. The latter responded on 12 May 2008, that the investigation did not manage to find her son's remains. On 25 May 2008, she was summoned by the same Prosecutor and met by his assistants who forbade her to lodge any complaints, and gave her a declaration stipulating that her request was no longer within the competence of the Prosecutor given the fact that she had availed herself of the "*Charte pour la paix et la réconciliation nationale*". On 2 July 2008, the author wrote again to the Prosecutor reminding him of her right to know where her son has been buried and have the investigation completed as recommended by the Views.

Consultations with the State party

In light of the State party's failure to provide follow-up information on any of the Committee's Views (five cases in all: 992/2001, *Bousroual*; 1172/2003, *Madani*; 1085/2002, *Taright*; 1196/2003, *Boucherf*; 1297/2004, *Medjnoune*), the Secretariat on behalf of the Rapporteur requested a meeting with a representative of the Permanent Mission during the last session of the Committee which took place between 7 and 25 July 2008. A representative from the Permanent Mission in Geneva requested a formal written request for a meeting, which was duly sent to the mission on 11 July 2008 with suggested dates for a meeting, as requested. Unfortunately, the State party did not respond to this request.

A meeting was scheduled for the ninety-fourth session but it did not take place.

Committee's Decision

The Committee considers the dialogue ongoing.

State party

Algeria

Case

Medjnoune Malik, 1297/2004

Views adopted on

14 July 2006

Issues and violations found

Arbitrary arrest, failure to inform of reasons for arrest and charges against him, torture, undue pretrial delay - articles 7; 9, paragraphs 1, 2 and 3; and 14, paragraph 3 (a) and (c), of the Covenant.

Remedy recommended

An effective remedy, which includes bringing Malik Medjnoune immediately before a judge to answer the charges against him or to release him, conducting a full and thorough investigation into the incommunicado detention and treatment suffered by Malik Medjnoune since 28 September 1999, and initiating criminal proceedings against the persons alleged to be responsible for those violations, in particular the ill-treatment. The state party is also required to provide appropriate compensation to Malik Medjnoune for the violations.

Due date for State party response

16 November 2006

Date of State party response

None

State party response

None

Author's comments

On 12 February 2009, the author's lawyer submits that the State party has made no effort to implement the Committee's Views and that the author remains detained and without a hearing in his case for nearly 10 years. Since the Committee's decision, 19 other criminal cases have been heard by the court in Tizi-Ouzou. The author went on hunger strike on 31 January 2009, and the following day the prosecutor of the tribunal came to the prison to inform him that his case would be heard after the elections. A year ago, during his last hunger strike, the judicial authorities also made the same promise explaining that his case was "politically sensitive" and that they did not have the power to decide to hear his case.

Consultations with the State party

The author's submission was sent to the State party on 16 February 2009 and no reply has been received to date.

In light of the State party's failure to provide follow-up information on any of the Committee's Views (five cases in all: 992/2001, *Bousroual*; 1172/2003, *Madani*; 1085/2002, *Taright*; 1196/2003, *Boucherf*; 1297/2004, *Medjnoune*), the Secretariat on behalf of the Rapporteur requested a meeting with a representative of the Permanent Mission during the ninety-third session of the Committee (7 and 25 July 2008). Despite a formal written request for a meeting, the State party did not respond. A meeting was eventually scheduled for the ninety-fourth session but it did not take place.

A new effort to arrange a meeting between the State party and the new Special Rapporteur should be arranged for the ninety-seventh session in October 2009.

Committee's Decision

The Committee considers the dialogue ongoing.

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CCPR, CCPR/C/SR.2712 (2010)

Human Rights Committee
Ninety-eighth session

Summary record (partial) of the 2712th meeting
Held at Headquarters, New York,
on Thursday 25 March 2010, at 3pm

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Follow-up on views under the Optional Protocol

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2. **Ms. Wedgwood**, speaking as Special Rapporteur for follow-up on Views under the Optional Protocol, introduced the follow-up progress report, which included information received since the Committee's 97th session.

3. Referring to case No. 1297/2004 (**Medjnoune v. Algeria**), she recommended that the Committee should persuade the State party, itself an outspoken member of the Human Rights Council, to give an indication of when the author would be tried. In cases No. 1178/2003 and 1553/2007 involving Belarus, which disputed the Committee's findings and therefore refused to implement its Views, a meeting with State party representatives would be productive. With respect to case No. 1353/2005 (**Afuson v. Cameroon**), the State party had claimed that it had attempted to provide a remedy but had been unable to reach the author. The Committee might therefore consider supplying the State party with the author's e-mail address, as long as doing so did not endanger the author. Turning to case No. 1134/2002 (**Gorji-Dinka v. Cameroon**), she noted that the State party, after failing to respond to the Committee's three requests for information while preparing its Views, now wished to submit information. She recommended that the Committee should enquire as to what information country representatives wished to contribute, while also reminding them of States parties' obligations under the Optional Protocol.

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17. *The recommendations contained in the follow-up progress report of the Committee on individual communications were approved.*

The discussion covered in the summary record ended at 3.40 p.m.

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Chapter VI. Follow-up on individual communications under the Optional Protocol

202. The present chapter sets out all information provided by States parties and authors or their counsel since the last annual report (A/64/40).

State party	Algeria
Case	<i>Medjnoune, 1297/2004</i>
Views adopted on	14 July 2006
Issues and violations found	Arbitrary arrest, failure to inform of reasons for arrest and charges against him, torture, undue pretrial delay - articles 7; 9, paragraphs 1, 2 and 3; and 14, paragraph 3 (a) and (c), of the Covenant.
Remedy recommended	An effective remedy, which includes bringing Mr. Malik Medjnoune immediately before a judge to answer the charges against him or to release him, conducting a full and thorough investigation into the incommunicado detention and treatment suffered by Mr. Medjnoune since 28 September 1999, and initiating criminal proceedings against the persons alleged to be responsible for those violations, in particular the ill-treatment. The State party is also required to provide appropriate compensation to Mr. Medjnoune for the violations.
Due date for State party response	16 November 2006
Date of State party response	None
Date of author's comments	9 April 2007, 27 February 2008, 12 February 2009, 28 September 2009.
Author's comments	On 9 April 2007, the author informed the Committee that the State party had failed to implement its Views. Even since the Committee's Views the author's case was brought before the Cour de Tizi-Ouzou on two occasions without being heard. In

addition, an individual living in Tizi-Ouzou claims to have been threatened by the judicial police to give false testimony against the author. This individual along with another (his son) claim to have been previously tortured in February and March 2002 for refusing to give evidence against the author, i.e. to say that they saw him in the area where the victim was shot. The first individual was later sentenced to three years imprisonment on 21 March 2004 for belonging to a terrorist group and the other acquitted, whereupon he fled to France where he was given refugee status.

On 27 February 2008, the author submitted that the State party had not implemented the Views. In the light of the fact that the author's case had still not been heard, he began a hunger strike on 25 February 2008. The procureur général visited him in prison to encourage him to end his strike and stated that although he could not fix a date for a hearing himself he would contact the "appropriate authorities". In the author's view, according to domestic law, the procureur général is the only person who can request the president of the criminal court to list a case for hearing.

On 12 February 2009, the author reiterated his allegation that the State party had not implemented the Views and stated that since the Views were adopted 19 other criminal cases have been heard by the court in Tizi-Ouzou. The author went on hunger strike again on 31 January 2009, and the following day the prosecutor of the Tribunal came to the prison to inform him that his case would be heard after the elections. A year ago, during his last hunger strike, the judicial authorities also made the same promise explaining that his case was "politically sensitive" and that they did not have the power to decide to hear his case.

On 28 September 2009, the author reiterated that he has still not been tried, that his case remains a political matter and that the Government has given instructions to the judiciary not to take any action on this matter.

Committee's Decision

The Committee considers the dialogue ongoing.

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