



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eighty-sixth session
13-31 March 2006

VIEWS

Communication No. 992/2001

Submitted by: Louisa Bousroual (represented by counsel)

Alleged victim: Salah Saker

State party: Algeria

Date of communication: 9 February 2000 (date of initial letter - received by the Secretariat on 20 October 2000)

Document references: Special Rapporteur's rule 97 decision, transmitted to the State party on 20 July 2001 (not issued in document form)

Date of adoption of Views: 30 March 2006

Subject matter: Disappearances, incommunicado detention, trial in absentia

Procedural issues: None

* Made public by decision of the Human Rights Committee.

Substantive issues: Right to liberty and security of person; arbitrary arrest and detention; right to be brought promptly before a judge; right to counsel; right to life; prohibition of cruel, inhuman and degrading treatment and punishment; trial in absentia leading to the death penalty

Articles of the Covenant: 2, paragraph 3; 6, paragraph 1; 7; 9, paragraphs 1, 3 and 4; 10, paragraph 1; and 14, paragraph 3

Articles of the Optional Protocol: 2 and 5, paragraph 2 (a)

On 30 March 2006, the Human Rights Committee adopted its Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 992/2001. The text of the Views is appended to the present document.

[ANNEX]

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**

Eighty-sixth session

concerning

Communication No. 992/2001*

Submitted by: Louisa Bousroual (represented by counsel)
Alleged victim: Salah Saker
State party: Algeria
Date of communication: 9 February 2000 (date of initial letter - received by the Secretariat on 20 October 2000)

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

Meeting on 30 March 2006,

Having concluded its consideration of communication No. 992/2001, submitted to the Human Rights Committee on behalf of Louisa Bousroual 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. The author of the communication, dated 9 February 2000, is Mrs. Louisa Bousroual, an Algerian national residing in Constantine (Algeria). She submits the communication on behalf of her husband, Mr. Salah Saker, an Algerian national born on 10 January 1957 in Constantine (Algeria) who has been missing since 29 May 1994. The author claims that her husband is a

* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Maurice Glèlè Ahanhanzo, Mr. Edwin Johnson, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Ivan Shearer, Mr. Hipólito Solari-Yrigoyen and Mr. Roman Wieruszewski.

victim of violations by Algeria of articles 2, paragraph 3; 6, paragraph 1; 9, paragraphs 1, 3 and 4; 10, paragraph 1; and 14, paragraph 3, of the International Covenant on Civil and Political Rights (the "Covenant"). The author is represented by counsel. The Covenant and the Optional Protocol to the Covenant entered into force for the State party on 12 December 1989.

The facts as presented by the author

2.1 Mr. Saker, a teacher, was arrested without a warrant on 29 May 1994 at 18.45 at his home, as part of a police operation carried out by agents of the Wilaya of Constantine (administrative division of the town of Constantine). At the time of his arrest, Mr. Saker was a member of the Front Islamiste de Salut (Islamic Salvation Front), a prohibited political party for which he had been elected in the annulled legislative elections of 1991.

2.2 In July 1994 the author wrote to the Director of Public Prosecutions (Procureur de la République) and requested to be informed about the reasons for her husband's arrest and continued detention. At the time of his arrest, the longest pretrial detention authorized by Algerian law was 12 days, for persons suspected of the most serious offences provided for in the Algerian criminal code, namely terrorist or subversive acts.¹ Further, the law required that the police officer responsible for the questioning of the suspect allow him contact with his family.²

2.3 The author did not receive a satisfactory reply from the Director of Public Prosecutions and, on 29 October 1994, wrote to the President of the Republic, the Minister of Justice, the Minister of the Interior, the Security Officer of the President of the Republic (Délégué à la Sécurité auprès du Président de la République), and the Head of Military Area No. 5.

2.4 As none of these persons replied, the author lodged a complaint with the Director of Public Prosecutions of the Tribunal of Constantine on 20 January 1996 against the security services of Constantine for the arbitrary arrest and detention of Mr. Saker. She requested that the persons responsible be brought to justice, pursuant to article 113, paragraph 2, of the Criminal Procedure Code. By letter of 25 January 1996, the author alerted the Ombudsman of the Republic (Médiateur de la République). She also requested information about her husband from the Director General of National Security on 28 January 1996.

2.5 As none of these bodies replied, the author wrote to the President of the National Observatory for Human Rights (Observatoire National des Droits de l'Homme) on 27 September 1996 to inform him of the difficulties which she was facing in obtaining information about her husband. She also requested legal aid and assistance.

2.6 On 27 February 1997 the author received a letter from the judicial Police section of the Security of Constantine (Service de la Police judiciaire de la Sûreté de la Wilaya de Constantine), forwarding a copy of Decision No. 16536/96 of the Director of Public Prosecutions of the Tribunal of Constantine dated 4 September 1996. This decision relates to the complaint which the author had lodged a year earlier; it informed her that her husband was wanted and had been arrested by the judicial police section of the Security of Constantine, then transferred to the Territorial Centre for Research and Investigation (Centre Territorial de Recherches et d'Investigation, the "Territorial Centre") of Military Area No. 5 on 3 July 1994, as evidenced by a receipt of handover No. 848 of 10 July 1994. The author highlights that this

decision does not indicate the reasons for her husband's arrest, nor does it clarify what steps, if any, were taken pursuant to her complaint of 20 January 1996, such as investigating the actions of the Territorial Centre.

2.7 On 10 December 1998 the National Observatory for Human Rights informed the author that, according to information received from the security services, Mr. Saker had been kidnapped by a non-identified armed group while in the custody of the Territorial Centre, and that the authorities did not have any other information as to his whereabouts. The letter from the Observatory does not clarify the grounds on which her husband was arrested and detained. The author understood the letter as informing her of her husband's death.

2.8 Lastly, the author states, on the one hand, that she has not been informed of either her husband's fate or his whereabouts and, on the other, that he underwent prolonged incommunicado detention; these allegations could raise issues under article 7 of the Covenant.

The complaint

3.1 The author claims that Mr. Saker is a victim of a violation of articles 2, paragraph 3; 6, paragraph 1; 9, paragraphs 1, 3 and 4; 10, paragraph 1; and 14, paragraph 3, of the Covenant, in view of his alleged arbitrary arrest and detention; because the Algerian authorities did not conduct a thorough and in-depth investigation; nor instigate any proceedings, despite the author's numerous requests. The author's husband was not promptly brought before a judge, nor was he granted contact with his family, nor was he granted rights associated with detention (in particular access to a lawyer, the right to be informed promptly of the reasons for his arrest, and trial without undue delay). The author also claims that the authorities failed to protect Mr. Saker's right to life.

3.2 The author claims to have exhausted all domestic remedies: remedies before judicial authorities, before independent administrative bodies responsible for human rights (the Ombudsman and the National Observatory for Human Rights), as well as the highest State authorities. She argues that her request for an investigation into the arrest, detention and disappearance of her husband was not acceded to. She claims that the judicial remedies which she initiated are manifestly unavailable and ineffective as, to her knowledge, no steps have been taken against the security services (police or Territorial Centre), which in her view are responsible for the arrest and disappearance of her husband. The author claims that the scarce responses and information she has received from the authorities aim to further delay the legal proceedings.

The State party's submission on the admissibility and merits of the communication and author's comments

4.1 By note verbale of 31 January 2002, the State party contests the admissibility of the communication for non-exhaustion of domestic remedies. Of the various bodies seized by the author, only the Director of Public Prosecutions of the Tribunal of Constantine has the power to open a preliminary inquiry and to refer the case to the competent judicial authority, namely the investigating magistrate (juge d'instruction). The author, in having done so, has availed herself of only one of three remedies which Algerian law provides for in such circumstances.

4.2 The author could have referred the case directly to the investigating magistrate of the Tribunal of Constantine, had the Director of Public Prosecutions failed to act (the latter has a discretion as to whether or not to pursue any matter before it).³ This direct referral is provided for in articles 72⁴ and 73⁵ of the Criminal Procedure Code, and would have resulted in the initiation of a public action (action publique). Further, any decisions of the investigating magistrate pursuant to those articles may be appealed to the Indictment Division (Chambre d'accusation).⁶

4.3 Further, the author could have lodged an action founded on tort against the State party (contentieux relatif à la responsabilité civile de l'Etat)⁷ which grants victims the right, independently of any decision in the criminal action, to submit a case to the competent administrative authorities and obtain damages and interest. The State party concludes that the most relevant domestic remedies have not been exhausted, that these remedies are frequently used, and lead to satisfactory results.

4.4 Subsidiarily, the State party submits some information on the merits of the case. Mr. Saker was arrested in June 1994 by the judicial police of the Wilaya of Constantine, on suspicion that he was a member of a terrorist group which had perpetrated a number of attacks in the region. After he had been heard, and as it had not been possible to confirm that he belonged to the terrorist group, the judicial police released him from custody and transferred him to the military branch of the judicial police for further questioning. Mr. Saker was released after one day by the military branch of the judicial police. He is wanted in connection with an arrest warrant issued by the investigating magistrate of Constantine, in an investigation against 23 persons, including Mr. Saker, who all allegedly belong to a terrorist group. This arrest warrant remains valid as Mr. Saker is a fugitive. A judgement in absentia was rendered against him and his co-accused on 29 July 1995 by the criminal division of the Court of Constantine.

5.1 By letter of 22 April 2002, counsel contends that the requirement to exhaust domestic remedies has been fulfilled.

5.2 Further to the petition lodged by the author on 20 January 1996, the author was summoned on 20 March 1999 by the investigating magistrate of the 3rd chamber of the Tribunal of Constantine. During the hearing with the judge, she was informed that the matter of the disappearance of her husband had been registered (Case 32/134) and was being investigated. The judge proceeded to question her as to the circumstances of Mr. Saker's arrest. Since that day the public action (action publique) has been pending. According to the author, the opening of this investigation precludes her from using the procedure highlighted by the State party and provided for in articles 72 and 73 of the Criminal Procedure Code.

5.3 Further, the author is precluded from lodging an action founded on tort against the State party until the criminal judge rules on the petition against the security services of the Wilaya of Constantine: the Criminal Procedure Code states that civil actions are stayed until a decision is reached in the public action.⁸ In any event, the author claims that the referral of the matter to an administrative body, when the matter is principally criminal in nature (in this instance punishable by the Criminal Procedure Code (art. 113, para. 2)), is inappropriate.

5.4 Some of the other bodies which the author appealed to have judicial powers, including the Minister of Justice who can request that the Director of Public Prosecutions initiate an action or instruct the competent authority to do so,⁹ whereas other bodies are mandated to investigate and search for the truth. These include the Ombudsman and the National Observatory for Human Rights. As none of these bodies replied, the author concludes that domestic remedies were neither adequate nor effective. The author recalls that she waited for 19 months after her hearing with the investigating magistrate for any information on the petition which she had lodged almost five years earlier.

5.5 The author contends that certain elements submitted by the State party confirm the arbitrary nature of Mr. Saker's detention and the unlawfulness of the warrant against him. His conviction was handed down in secret (no member of his family was informed of the trial or of the judgement of the court) on 29 July 1995 by the Court of Constantine. Further, the State party has not clarified the date, time or place when Mr. Saker was allegedly released from detention.

5.6 The author highlights that the issue of disappearances and prolonged secret detentions in Algeria are of great concern to human rights activists. The author also refers to the Committee's concluding observations on Algeria during the consideration of the State party's second periodic report. The Committee had urged the State party to ensure that independent mechanisms be set up to investigate all violations of the right to life and security of the person, and that offenders should be brought to justice. The author submits that no such mechanisms have been put into place and that offenders enjoy complete impunity.

Further State party observations and author's comments

6. On 17 November 2003 the State party reiterated that the author has not exhausted domestic remedies, and submitted further information on the merits. Mr. Saker was taken in for questioning on 12 June 1994 by the police. After being held for three days he was handed over to the military branch of the judicial police for further questioning on 15 June 1994. As soon as that questioning ended, Mr. Saker was released. Finally, the judgement of 29 July 1995 pronounced in absentia sentenced Mr. Saker to death.

7. By letter of 5 February 2004 the author refutes the State party's version of events and reiterates her own version. The author also highlights the contents of the letter dated 26 February 1997 from Salim Abdenour (judicial police officer) confirming the date on which Mr. Saker was handed over to the Territorial Centre for further questioning. The author explains that the letter doesn't specify the date of arrest as this would have clearly shown that the length of detention (33 days) had exceeded the legal maximum of 12 days.¹⁰

Issues and proceedings before the Committee

Admissibility considerations

8.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

8.2 The Committee notes that the same matter is not being examined under any other international procedure, in line with the requirements of article 5, paragraph 2 (a), of the Optional Protocol.

8.3 The Committee also notes that the State party maintains that the author has not exhausted available domestic remedies. On this point, the Committee takes note of the author's claim that her complaint lodged on 20 January 1996 remains under consideration, and that this exempts her from exhausting the civil party remedies highlighted by the State party. The Committee considers that the application of domestic remedies has been unduly prolonged in relation to the complaint introduced on 20 January 1996. It has not been demonstrated by the State party that the other remedies it refers to are or would be effective, in light of the serious and grave nature of the allegation, and the repeated attempts made by the author to elucidate the whereabouts of her husband. Therefore, the Committee considers that the author exhausted domestic remedies in conformity with article 5, paragraph 2 (b), of the Optional Protocol.

8.4 As to the alleged violation of article 14, paragraph 3, the Committee considers that the author's allegations have been insufficiently substantiated for purposes of admissibility. On the question of the complaints under articles 2, paragraph 3; 6, paragraph 1; 7; 9 and 10, the Committee considers that these allegations have been sufficiently substantiated. The Committee therefore concludes that the communication is admissible under articles 2, paragraph 3; 6, paragraph 1; 7; 9 and 10, of the Covenant and proceeds to their consideration on the merits.

Consideration of the merits

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

9.2 The Committee recalls the definition of enforced disappearance in article 7, paragraph 2 (i), of the Rome Statute of the International Criminal Court: Enforced disappearance of persons means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time. Any act of such disappearance constitutes a violation of many of the rights enshrined in the Covenant, including the right to liberty and security of the person (art. 9), the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (art. 7), and the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person (art. 10). It also violates or constitutes a grave threat to the right to life (art. 6).

9.3 With regard to the author's claim of the disappearance of her husband, the Committee notes that the author and the State party have submitted different accounts, dates and outcome of events. While the author contends that her husband was arrested without a warrant on 29 May 1994, and according to a letter from the judicial police (referring to Decision No. 16536/96 of the Director of Public Prosecutions of the Tribunal of Constantine) he was handed over to the Territorial Centre on 3 July 1994, the State party contends that Mr. Saker was arrested on 12 June 1994, handed over to the military branch of the judicial police on

15 June 1994, and released some time thereafter. The Committee also recalls that according to the National Observatory for Human Rights, the author's husband was "kidnapped" by an unidentified military group, this according to information received from the security forces. The Committee notes that the State party has not responded to the sufficiently detailed allegations exposed by the author, nor submitted any evidence such as arrest warrants, release papers, records of interrogation or detention.

9.4 The Committee has consistently maintained¹¹ that the burden of proof cannot rest alone on the author of the communication, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to the relevant information. It is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violation of the Covenant made against it and its authorities and to furnish to the Committee the information available to it. In cases where the allegations are corroborated by evidence submitted by the author and where further clarification of the cases depends on information exclusively in the hands of the State party, the Committee may consider the author's allegations as substantiated in the absence of satisfactory evidence and explanation to the contrary submitted by the State party.

9.5 As to the alleged violation of article 9, paragraph 1, the evidence before the Committee reveals that Mr. Saker was removed from his home by State agents. The State party has not addressed the author's claims that her husband's arrest was made in the absence of a warrant. It has failed to indicate the legal basis on which the author's husband was subsequently transferred to military custody. It has failed to document its assertion that he was subsequently released, even less how he was released with conditions of safety. All these considerations lead the Committee to conclude that the detention as a whole was arbitrary, nor has the State party adduced evidence that the detention of Mr. Saker was not arbitrary or illegal. The Committee concludes that, in the circumstances, there has been a violation of article 9, paragraph 1.¹²

9.6 As to the alleged violation of article 9, paragraph 3, the Committee recalls that the right to be brought "promptly" before a judicial authority implies that delays must not exceed a few days, and that incommunicado detention as such may violate article 9, paragraph 3.¹³ It takes note of the author's argument that her husband was held incommunicado for 33 days by the judicial police before being transferred to the Territorial Centre on 3 July 1994, without any possibility of access to a lawyer during that period. It concludes that the facts before it disclose a violation of article 9, paragraph 3.

9.7 As to the alleged violation of article 9, paragraph 4, the Committee recalls that the author's husband had no access to counsel during his incommunicado detention, which prevented him from challenging the lawfulness of his detention during that period. In the absence of any pertinent information on this point from the State party, the Committee finds that Mr. Saker's right to judicial review of the lawfulness of his detention (art. 9, para. 4) has also been violated.

9.8 The Committee notes that while not specifically invoked by the author, the communication appears to raise issues under article 7 of the Covenant in relation to the author and her husband. The Committee recognizes the degree of suffering involved in being held indefinitely without contact with the outside world. In this context, the Committee recalls its general comment No. 20 (44) on article 7 of the Covenant, which recommends that States parties

should make provision against incommunicado detention. In the circumstances, the Committee concludes that the disappearance of the author's husband and the prevention of contact with his family and with the outside world constitute a violation of article 7 of the Covenant.¹⁴

The Committee also notes the anguish and stress caused to the author by the disappearance of her husband and the continued uncertainty concerning his fate and whereabouts. The Committee is therefore of the opinion that the facts before it reveal a violation of article 7 of the Covenant with regard to the author's husband as well as the author¹⁵ herself.

9.9 In light of the above findings, the Committee does not consider it necessary to address the author's claims under article 10 of the Covenant.

9.10 As to the alleged violation of article 6, paragraph 1, of the Covenant, the Committee notes that according to the letter from the judicial police (referring to Decision No. 16536/96 of the Director of Public Prosecutions of the Tribunal of Constantine), the author's husband was handed to government agents on 3 July 1994, and that the author has not heard from her husband since then. The Committee also notes that the author understood the letter from the National Observatory for Human Rights as informing her of his death.

9.11 The Committee refers to its general comment No. 6 (16) concerning article 6 of the Covenant, which provides *inter alia* that States parties should take specific and effective measures to prevent the disappearance of individuals and establish facilities and procedures to investigate thoroughly, by an appropriate impartial body, cases of missing and disappeared persons in circumstances which may involve a violation of the right to life.¹⁶ In the present case, the Committee notes that the State party does not deny that the author's husband has been unaccounted for since at least 29 July 1995, when the judgement *in absentia* was handed down by the criminal division of the Court of Constantine. As the State party has not provided any information or evidence relating to the victim's release from the Territorial Centre, the Committee is of the opinion that the facts before it reveal a violation of article 6, paragraph 1, in that the State party failed to protect the life of Mr. Saker.

9.12 The author has invoked article 2, paragraph 3, of the Covenant, which requires that in addition to effective protection of Covenant rights States parties must ensure that individuals also have accessible, effective and enforceable remedies to vindicate those rights. The Committee attaches importance to States parties establishing appropriate judicial and administrative mechanism for addressing claims of rights violations under domestic law. It refers to its general comment No. 31 (80) on the nature of the general legal obligation imposed on States parties to the Covenant, which provides *inter alia* that a failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.¹⁷ In the present case, the information before the Committee indicates that the author did not have access to such effective remedies, and concludes that the facts before it disclose a violation of article 2, paragraph 3, of the Covenant in conjunction with articles 6, paragraph 1, 7 and 9.

10. 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 facts before it reveal violations by the State party of articles 6, paragraph 1, 7 and 9, paragraphs 1, 3 and 4, of the Covenant in relation to the author's husband as well as article 7 in relation to the author, violations in conjunction with article 2, paragraph 3, of the Covenant.

11. In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's husband, his immediate release if he is still alive, adequate information resulting from its investigation transmitted to the author, and appropriate levels of compensation for the violations suffered by the author's husband, the author and the family. 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.

12. 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 there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, that State party has undertaken to ensure all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

Notes

¹ Article 22 of the law of 30 September 1992 relating to the fight against terrorism.

² Article 21, paragraph 3, of the Criminal Procedure Code.

³ Article 36, paragraph 1, of the Criminal Procedure Code.

⁴ Article 72 of the Criminal Procedure Code: "Toute personne qui se prétend lésée par une infraction, peut, en portant plainte, se constituer partie civile devant le juge d'instruction compétent."

⁵ Article 73 of the Criminal Procedure Code: "Le juge d'instruction ordonne communication de la plainte au Procureur de la République, dans un délai de cinq jours, aux fins de réquisitions. Le Procureur de la République doit prendre des réquisitions dans les cinq jours de la communication. Le réquisitoire peut être pris contre personne dénommée ou non dénommée. Le Procureur de la République ne peut saisir le juge d'instruction de réquisition de non informé, que si, pour des causes affectant l'action publique elle-même, les faits ne peuvent légalement comporter une poursuite, ou si, à supposer ces faits démontrés, ils ne peuvent admettre aucune qualification pénale. Dans le cas où le juge d'instruction passe outre, il doit statuer par une ordonnance motivée. En cas de plainte insuffisamment motivée ou insuffisamment justifiée, le juge d'instruction peut aussi être saisi de réquisitoires tendant à ce qu'il soit provisoirement informé contre toutes personnes que l'information fera connaître. Dans ce cas, celui ou ceux qui se trouvent visés par la plainte peuvent être entendus comme témoins par le juge d'instruction,

sous réserve des dispositions de l'article 89 dont il devra leur donner connaissance, jusqu'au moment où pourront intervenir les inculpations ou, s'il y a lieu, de nouvelles réquisitions contre personnes dénommées."

⁶ Articles 170 to 174 of the Criminal Procedure Code.

⁷ Article 7 of the Civil Procedure Code.

⁸ Article 4, paragraph 2, of the Criminal Procedure Code: "tant qu'il n'a pas été prononcé définitivement sur l'action publique lorsque celle-ci a été mise en mouvement".

⁹ Article 30, paragraph 2, of the Criminal Procedure Code: "d'engager ou de faire engager des poursuites ou de saisir la juridiction compétente de telles réquisitions écrites qu'il juge opportunes".

¹⁰ Article 51, paragraph 3, of the Criminal Procedure Code.

¹¹ Communication No. 146/1983, *Baboeram-Adhin and others v. Suriname*, Views adopted on 4 April 1985, para. 14.2; communication No. 139/1983, *Conteris v. Uruguay*, Views adopted on 17 July 1985, para. 7.2; communication No. 202/1986, *Graciela Ato del Avellanal v. Peru*, Views adopted on 31 October 1988, para. 9.2; communication No. 30/1978, *Bleier v. Uruguay*, Views adopted on 29 March 1982, para. 13.3.

¹² Communication No. 778/1997, *Coronel et al. v. Colombia*, Views adopted on 24 October 2002, para. 9.4; communication No. 449/1991, *Barbarín Mojica v. Dominican Republic*, Views adopted on 10 August 1994, para. 5.4.

¹³ Communication No. 1128/2002, *Rafael Marques de Morais v. Angola*, Views adopted on 29 March 2005, para. 6.3. See also general comment No. 8 (16), para. 2.

¹⁴ Communication No. 540/1993, *Celis Laureano v. Peru*, Views adopted on 25 March 1996, para. 8.5; communication No. 458/1991, *Mukong v. Cameroon*, Views adopted on 24 July 1994, para. 9.4; communication No. 440/1990, *El-Megreisi v. Libyan Arab Jamahiriya*, Views adopted on 23 March 1994, para. 5.

¹⁵ Communication No. 107/1981, *Quinteros v. Uruguay*, Views adopted on 21 July 1983, para. 14; communication No. 950/2000, *Sarma v. Sri Lanka*, Views adopted on 31 July 2003, para. 9.5.

¹⁶ General comment No. 6 (16), para. 4; communication No. 540/1993, *Celis Laureano v. Peru*, Views adopted on 16 April 1996, para. 8.3; communication No. 563/1993, *Federico Andreu v. Colombia*, Views adopted on 13 November 1995, para. 8.3; communication No. 449/1991, *Barbarín Mojica v. Dominican Republic*, Views adopted on 10 August 1994, para. 5.5.

¹⁷ General comment No. 31 (80), para. 15.
