



International Covenant on Civil and Political Rights

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Human Rights Committee

Decision adopted by the Committee under the Optional Protocol, concerning communication No. 2780/2016*, **, ***

<i>Communication submitted by:</i>	P.F. and M.F. (represented by counsel, William Woll)
<i>Alleged victims:</i>	The authors
<i>State party:</i>	France
<i>Date of communication:</i>	14 February 2015 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 16 June 2016 (not issued in document form)
<i>Date of adoption of decision:</i>	20 October 2020
<i>Subject matter:</i>	Arbitrary invasions of privacy
<i>Procedural issues:</i>	Non-exhaustion of domestic remedies; insufficient substantiation of claims; incompatibility <i>ratione materiae</i> with the Covenant
<i>Substantive issues:</i>	Right to privacy and family life; right to a fair trial
<i>Articles of the Covenant:</i>	2 (3), 7, 14 (1) and 17
<i>Articles of the Optional Protocol:</i>	2, 3 and 5 (2) (b)

* Adopted by the Committee at its 130th session (12 October–6 November 2020).

** The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Arif Bulkan, Ahmed Amin Fathalla, Furuya Shuichi, Christof Heyns, Bamariam Koita, David H. Moore, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Andreas Zimmermann and Gentian Zyberi. In accordance with rule 108 of the Committee's rules of procedure, Hélène Tigroudja did not participate in the examination of the communication.

*** The text of an individual opinion (partly dissenting) of Committee member José Manuel Santos Pais is appended to the present decision.



1. The authors of the communication are a married couple of French nationals: P.F., born on 22 May 1933,¹ and M.F., born on 23 May 1958. They claim that the State party has violated their rights under articles 2 (3), 7, 14 (1) and 17 of the Covenant. France acceded to the Optional Protocol to the Covenant on 17 February 1984. The authors are represented by counsel, William Woll.

The facts as submitted by the authors

2.1 On 2 February 1987, the authors hired a contractor to build a house in the town of Fayence, France. To finance the project, they took out a loan from *Crédit foncier de France*. The loan was for 450,000 French francs (€68,602) and it was backed by a mortgage based on the value of their lot and their future house.

2.2 As a result of various defects attributable to the contractor, the authors turned to the courts for the payment of damages. On 14 June 1990, the Draguignan *Tribunal de Grande Instance* (court of major jurisdiction) ruled in their favour, and the contractor was compelled to pay a sum of 219,453 francs (€33,455) to enable the authors to finish building their house and repair the defects. The contractor appealed this ruling before the Court of Appeal of Aix-en-Provence. According to the authors, their lawyer made a mistake during the trial.² On 10 June 1993, the Court reduced the amount of the monetary award to be paid by the contractor to 80,546 francs (€12,279), obliging the authors to reimburse the overpayment they had received pursuant to the ruling that had been partially reversed on appeal.

2.3 As they were unable to pay back the sum, the authors asked the lawyer who had been in the wrong to make the payment, but he refused. The contractor decided to seek the enforcement of the decision and requested the amount of the overpayment from the authors. They submitted an application for a suspension of action that was rejected by a lower court and on appeal. The contractor had the rent paid to the authors by their tenant garnished starting on 27 October 1995. The authors brought an urgent action before the Nîmes *Tribunal de Grande Instance* to compel the lawyer and his insurer to pay the sum requested by the contractor.³ On 15 July 1996, without waiting for the Nîmes court to rule, the contractor initiated proceedings for seizure of immovables. The authors requested that the sale at auction be declared null and void, but on 28 February 1997 Judge X rejected the request. In a ruling of 6 March 1998, the authors' claims were dismissed, and they were ordered to pay damages for delaying action. On 18 March 1998, the Court of Appeal of Aix-en-Provence, finding that the contractor had never had an enforcement order, overturned the decision of 28 February 1997. On 26 June 1998, the Draguignan court found the order for the seizure of immovables null and void but ordered the authors to pay damages.

2.4 All the proceedings initiated by the authors have come at a considerable cost, and since 1996 they have been unable to make the payments they owe to *Crédit foncier de France*.⁴ On 28 April 1998, *Crédit foncier de France* sent the authors a foreclosure notice. The house and lot were appraised at 300,000 francs (€45,735), a value that was equivalent to that of the lot alone. On 14 August 1998, *Crédit foncier de France* garnished the rent payments made to the authors by their tenant.

2.5 On 11 September 1998, Judge X ordered the sale of the authors' home⁵ and obliged them to pay damages for vexatious litigation. Two years later, on 21 September 2000, the

¹ On 1 August 2015, the authors' counsel informed the Committee that P.F. had died on 17 July 2015 and that M.F. intended to continue the proceedings before the Committee.

² The lawyer's mistake, according to the authors, led to their not being represented at the hearing or having anyone to defend their interests.

³ On 17 November 1997, the Nîmes *Tribunal de Grande Instance* found the lawyer and his insurer jointly and severally liable, ordering them to pay the authors 200,000 francs (€30,490) and acknowledging the link between the lawyer's malfeasance and the amount demanded by the contractor. The lawyer and his insurer appealed to the Court of Appeal of Nîmes, which upheld the first judgment on 18 January 2001. The authors received a cheque for 210,005.86 francs (€32,015); however, this was not enough to cover what they owed.

⁴ *Crédit foncier de France* had the authors' names entered in the register of non-repayment of loans.

⁵ The house was sold to bidders who have the same lawyer as *Crédit foncier de France*.

Court of Cassation overturned this decision.⁶ In a letter of 16 July 2001, the authors learned that the Draguignan Office of the Mortgage Registrar was refusing to list the house under their name.⁷ In an attempt to solve this problem, the authors brought a case before the Draguignan *Tribunal de Grande Instance*, which, in a judgment of 27 June 2002, recognized that the sale at auction was indeed null and void.⁸

2.6 The tenant of the house took advantage of this imbroglio to stop paying her rent. On 20 October 2000, the authors sent her an order for payment of 163,424.76 francs (€24,914), an amount equal to the unpaid rent. The tenant turned to the Draguignan *Tribunal de Grande Instance*.⁹ Crédit foncier de France, faced with the tenant's refusal to pay her rent, brought an action before the same court with a view to securing a writ of execution naming her. On 3 June 2003, the court declared the garnishment order null and void on the grounds that, under the Code of Civil Procedure, seizure of immovables and garnishment of rent cannot be carried out simultaneously. Crédit foncier de France appealed.

2.7 In April 2002, the authors decided to pay €777.49 a month, one third of their monthly income, to Crédit foncier de France, which collected the money. Crédit foncier de France, with a view to foreclosing on the house, had the authors listed as the real owners with the Office of the Mortgage Registrar. On 26 November 2004,¹⁰ the Draguignan court rejected the authors' arguments and ordered that the auction be held on 14 January 2005. On 6 September 2005, the Marseille *Tribunal de Grande Instance*¹¹ found that Crédit foncier de France was at fault and had caused the authors to suffer compensable damage. The court, however, did not determine the exact amount to be awarded in compensation and decided to defer the case pending the "forthcoming" decision of the Court of Appeal of Aix-en-Provence. On the same day, the Court of Appeal, reversing the judgment of the Draguignan court, ordered the eviction of the tenant for lack of renters' insurance.

2.8 On 27 January 2006, the Court of Appeal, ruling on the lending institution's appeal of the judgment of the Draguignan *Tribunal de Grande Instance* of 3 June 2003, upheld the cancellation of the garnishment order. On 1 December 2006, the Court of Appeal, again, ruling on Crédit foncier de France's appeal of the judgment of the Marseille court of 6 September 2005, recognized the harm that had been done to the authors by their lender but reproached them for their negligence between 21 September 2000 and 11 June 2004, without taking into account the violation of their right to a fair trial. The authors lodged an application for judicial review that was rejected on 6 November 2008 for want of serious grounds for admission.

2.9 On 28 March 2008, the Court of Appeal upheld the judgment of 26 November 2004 ordering the sale of the authors' house at auction.¹² On 29 September 2011, the Court of

⁶ The litigants were put back in the legal situation that had prevailed before the overturned judgment and thus before the sale of the house.

⁷ This refusal was the result of missing documents.

⁸ The Office maintained its refusal until August 2003.

⁹ The court found that, as a result of the garnishment of 14 August 1998, the rent claims were assets of Crédit foncier de France. On 17 September 2002, the authors sued for the eviction of their tenant for lack of insurance. On 17 December 2002, the court, to which the tenant had applied, refused to order that she be evicted until, by paying her rent, she had settled the debt still held by Crédit foncier de France. On 15 February 2006, the tenant was tried by the Draguignan Correctional Court for having built a building, without a building permit, on the authors' property. On 31 March 2007, the tenant finally vacated the premises. The authors moved in, but as the house was in very bad shape, it took them a year to repair it.

¹⁰ The hearing of 30 July 2004 was postponed to 24 September 2004 at the request of Crédit foncier de France. As it had still not made its written submissions by then, the judge rescheduled the hearing for 15 October 2004. Crédit foncier de France's submissions were made available to the authors on 12 October 2004, three days before the scheduled hearing. They were granted a postponement of the hearing until 26 November 2004.

¹¹ On 16 December 2003, the authors had decided to call Crédit foncier de France and the successful bidders at the auction that had been found null and void before the Marseille *Tribunal de Grande Instance* with a view to obtaining compensation for all the damage they had suffered.

¹² The authors applied to the State for exceptional financial assistance. They then requested the suspension of the foreclosure proceedings. The judge rejected this request, and the authors appealed.

Cassation rejected the authors' application without explanation. The court auction was scheduled for 24 February 2012. The authors had an oral statement recorded in which they referred to the invalidity of the seizure. The judge presiding over the court auction agreed with Crédit foncier de France that the postponement of the hearing had been requested by the authors.

2.10 The house was sold for €255,000, even though it had been appraised at €528,000 in 2009. Of this amount, the authors received €105,000. Having been ordered to pay damages (€3,000) for vexatious litigation, the authors filed an application for judicial review. On 11 July 2013, the Court of Cassation rejected all the authors' claims but the one concerning the payment of damages, as the judge of the lower court had not shown how the tort was legally recognizable. On 20 June 2014, the Draguignan *Tribunal de Grande Instance*, having been remanded the case, ordered the authors to pay a fine of €1,500 for vexatious litigation.¹³

2.11 The authors lodged an application with the European Court of Human Rights on 3 October 2014. In a letter of 20 November 2014, they were informed, after it had been considered by the Court sitting in a single-judge formation, that their application was inadmissible on the grounds that it did not meet the conditions laid down in articles 34 and 35 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). Although France has made a reservation to the Optional Protocol preventing the same case from being considered by the Committee when it has already been considered by the European Court, the authors note that, according to the Committee's jurisprudence, such reservations do not apply to applications rejected by the European Court on procedural grounds alone.¹⁴

2.12 In all, the proceedings in the French courts lasted 26 years (from 1987 to 2013), and 40 court decisions were handed down. The authors fought to keep their home and found themselves losing out, even though their house was worth considerably more than what they owed Crédit foncier de France.

The complaint

3.1 The authors claim to be victims of a violation by the State of article 17 (1) of the Covenant, in connection with the protection of the home. They are of the view that they have been subjected to arbitrary interference with their home, which has twice been taken away from them by court order.¹⁵ At the time of the first auction, the amount they owed was much less than the amount for which the house sold. Garnishing the rent they collected from the first tenant would have been more proportionate and appropriate. There were other means of reimbursing Crédit foncier de France and the contractor. Similarly, for the second sale, there were no specific circumstances warranting such disproportionate treatment by the national authorities, and there were still possible alternatives¹⁶ to the auction. The authors also allege a violation of article 17 (1) of the Covenant, as they believe that they are victims of arbitrary interference with their right to privacy¹⁷ and of an attack on their honour and reputation.¹⁸

3.2 In addition, the authors submit that article 14 (1) of the Covenant has been violated insofar as their property rights are a civil right.¹⁹ They are of the view that this article was

On 2 July 2010, the Court of Appeal upheld the judgment of the Draguignan *Tribunal de Grande Instance*, so the foreclosure had to proceed.

¹³ The authors did not appeal, as their conduct had already been found wrongful or, indeed, even vexatious.

¹⁴ *Vincent v. France* (CCPR/C/91/D/1505/2006), para. 7.2.

¹⁵ Judgments of 11 September 1998 and 24 February 2012 of the Draguignan *Tribunal de Grande Instance*.

¹⁶ In particular, the authors' monthly payment of €777.49 to Crédit foncier de France since April 2002 and the seizure of only one of the lots. Furthermore, if the compensation awarded by the Court of Appeal of Aix-en-Provence on 1 December 2006 had covered all the damages, the sale would not have been necessary.

¹⁷ The threat of bailiffs' repossessing their home or seizing bank accounts or any other amounts of money that might be paid to them has pervaded the authors' daily lives since 1993.

¹⁸ The house is located in a small town where legal proceedings are extremely rare.

¹⁹ See *Deisl v. Austria* (CCPR/C/81/D/1060/2002) and *Czernin v. Czech Republic* (CCPR/C/83/D/823/1998).

violated for the following three reasons: (a) Judge X's lack of impartiality;²⁰ (b) the fact that they did not have the right to any real means of redress because of an obvious error that had a decisive impact on the case concerning the second sale at auction;²¹ and (c) the excessive length of the entire procedure.²² The authors acknowledge that article 14 of the Covenant, unlike other instruments for the protection of human rights, does not formally require that civil matters be resolved within a reasonable time.²³ The Committee has nonetheless found this requirement to be part of the right to a fair trial in matters relating to "rights and obligations" in a suit at law.²⁴

3.3 The authors also claim that articles 2 (3) and 14 (1) of the Covenant were violated because they were unable to exercise their right, arising from the right to be heard by a judicial authority, to the enforcement of a court decision. In this case, their right to the enforcement of the Court of Cassation's ruling of 21 September 2000 was, in the authors' view, violated, as the Draguignan Office of the Mortgage Registrar, on no legal basis, refused to execute it between July 2001 and August 2003. Exchanges of correspondence between the authors, counsel for the authors and the Office of the Mortgage Registrar show, according to the authors, that administrative procedures were obstructed, conduct that they identify as hidden corruption.

3.4 The authors are also of the opinion that article 2 (3) of the Covenant was violated, as they have not obtained full reparation for all the harm caused by the violation of articles 14 (1) and 17.

3.5 The authors claim that the combination of the alleged violations, including the ultimate loss of their home and their departure therefrom on 15 August 2013, amounts to a violation of article 7 of the Covenant.

3.6 The authors are aware that the Committee cannot assess the facts and evidence in a case or the manner in which domestic law should be applied. Where the assessment or application of domestic law has been clearly arbitrary or amounts to a manifest error or a denial of justice, however, the Committee considers itself competent.

3.7 The authors were twice deprived of their sole place of residence as a result of a dispute that was resolved poorly and misjudged by the French courts, in violation of the above-mentioned articles of the Covenant.

State party's observations on admissibility

4.1 On 17 August 2016, the State party submitted its observations on the admissibility of the communication.

4.2 The State party contends that the authors, despite their claims to the contrary, have never, not even in substance, invoked before the courts the various violations they complain of before the Committee and have therefore not exhausted domestic remedies.

4.3 With regard to the right to a fair trial under article 14 of the Covenant, the authors highlight a lack of impartiality on the part of one of the judges of the Draguignan court, a

²⁰ Judge X had already intervened four times in the case, but never in favour of the authors. He also rejected the parties' submissions in an unclear and erroneous manner. Although the Court of Cassation acknowledged that the judge had failed to respect the norms of the adversarial system, it intervened too late (two years later and after the auction) and, for reasons unknown, its decision was not immediately enforced.

²¹ According to the authors, the Court of Cassation's decision of 11 July 2013 contained an obvious error constituting a miscarriage of justice. The hearing for the second auction, which was planned for 30 July 2004, was postponed to 24 September 2004 by *Crédit foncier de France*. However, in French law, the postponement of such hearings, known as possible hearings because they are held only if the debtors request them, results in the seizure's being declared null and void.

²² The principle of reaching a resolution within a reasonable time was not respected, as the proceedings took 26 years. The period could have been shortened considerably if the Nîmes court had ordered the provisional execution of its judgment of 11 November 1997, as the authors would have been able to pay their debts and the proceedings would have come to an end within a more reasonable time.

²³ Article 6 (1) of the European Convention on Human Rights.

²⁴ See *Casanovas v. France* (CCPR/C/51/D/441/1990).

denial of justice and the excessive length of the proceedings. None of these complaints, however, has been submitted to a domestic court. In the domestic proceedings before the Court of Cassation, the authors never referred to the lack of impartiality of the judge of the Draguignan court, although they could have done so. The same applies to a possible denial of justice. Finally, as regards the excessive length of the proceedings, in France there is a procedure governed by article L141-1 of the Code of Judicial Organization that allows the parties concerned to obtain compensation for damage caused by the improper administration of justice. The authors have not availed themselves of this procedure or made a complaint to the domestic courts in this respect.

4.4 The complaints regarding arbitrary interference with the authors' privacy and attacks on their honour and reputation, in violation of article 17 of the Covenant, as well as alleged inhuman and degrading treatment, in violation of article 7, have never been invoked or even simply sketched out in the various judicial proceedings before the domestic courts.

4.5 Lastly, the final grievances – namely, those concerning arbitrary interference with the authors' home, in violation of article 17 of the Covenant, and violations of the right to execution of the Court of Cassation's judgment of 21 September 2000, under article 14 of the Covenant, and of the right to full compensation for the harm they were done, under articles 14 and 17 of the Covenant – have not been invoked before the domestic courts, either.

4.6 With these last three grievances, the authors intend to contest before the Committee, as they did before the domestic courts, the justification for the sale at auction of their house, as ordered in two court decisions, and the continuing threat of foreclosure on their house.

4.7 In connection with their claim of arbitrary interference with their home, the authors' submission states, for example: "In practice, Mr. and Mrs. F. owned their home but had no title to it vis-à-vis third parties. The legally unjustified refusal of the Office of the Mortgage Registrar is therefore a second instance of arbitrary interference with the authors' home." Similarly, with regard to the alleged violation of article 14 of the Covenant arising from the failure to enforce the Court of Cassation's ruling of 21 September 2000, the submission states:

Between July 2001 and August 2003, the Draguignan Office of the Mortgage Registrar refused, on no legal basis, to comply with the decision of the Court of Cassation of 21 September 2000, which, by reversing the judgment handed down by Judge X on the grounds that it constituted a violation of the norms of the adversarial justice system and thus of a right protected under the Covenant, restored to the authors their rightful ownership of their home.

As for the violation of the right to full compensation for damages, the authors believe that they have not been able to obtain such compensation and that if they had been able to do so "they would now be owners of their home".

4.8 It is in fact a violation of their property rights that the authors are seeking to claim before the Committee. The right to property, however, is not guaranteed under the Covenant, as the Committee pointed out in its decisions in a number of cases.²⁵

4.9 In order to circumvent the problem of the Committee's lack of competence, the authors claim violations of other rights protected under the Covenant and attempt to include under those rights aspects of the right to property.

Additional observations by the State party on admissibility and the merits

5.1 On 23 December 2016, the State party submitted its observations on the merits of the communication.

5.2 The State party notes that the authors complain of two legal proceedings, the first initiated by *Crédit foncier de France* and the second by the *Compagnie de financement foncier*, which twice led to the sale at auction of the authors' property.

²⁵ *Anton v. Algeria* (CCPR/C/88/D/1424/2005), para. 8.2, and *Simunek et al. v. Czech Republic* (CCPR/C/54/D/516/1992), para. 11.3.

5.3 The State party reiterates that the claim of arbitrary interference with the authors' home should be declared inadmissible, because this claim actually relates to the right to property, which is not guaranteed under the Covenant. Furthermore, the disputed property cannot be described as their home. The contested proceedings for the repossession of their house in Fayence lasted from 1998 to 2013. However, inasmuch as the authors do not show that they lived in the house over the course of the proceedings, it cannot be regarded as their home during that period. As article 17 of the Covenant is, given the facts of the case, inapplicable, the complaint must be dismissed.

5.4 With regard to the foreclosure proceedings, the State party argues that interference with the home is compatible with article 17 of the Covenant if it is provided for by law, consistent with the aims and objectives of the Covenant and "reasonable in the particular circumstances". All these conditions are met in this case, as the foreclosures were lawful, and, under the Civil Code (art. 2204), foreclosure is an option available to creditors. The authors failed to honour their contract with Crédit foncier de France by not paying back their loan in full, despite the long periods of time available to them as a result of the many legal proceedings they initiated. Crédit foncier de France and then the Compagnie de financement foncier were thus entitled to collect on their claim by requesting the sale of the mortgaged property. Lastly, the proceedings by which the sales at auction were ordered adhered to the proportionality principle. The auctions themselves were thus reasonable. The authors' very large debt and the long period of time over which they failed to ensure that it was settled, points to the necessity and reasonableness of the forced sale criticized before the Committee. Their property was sold at auction for €255,000 by the Draguignan court in its judgment of 24 February 2012.

5.5 The authors, in an attempt to contest the reasonableness of this interference, contend that their property was one of several lots serving as collateral for the mortgage from the Compagnie de financement foncier. In their view, the mortgage holder should have been satisfied with repossessing but one lot. In accordance with article 2393 of the Civil Code, "mortgage is, by nature, an indivisible right that burdens the entirety of the immovable property mortgaged, including each component part thereof". Because of this indivisibility, the seizure concerns all the mortgaged lots. Moreover, the scope of the seizure was determined by the very nature of the mortgage to which they had consented. The Court of Cassation, for the rest, nullified the first foreclosure proceedings initiated by Crédit foncier de France, in its judgment of 21 September 2000, on procedural grounds. After this decision, and despite the passage of several years, the authors did not discharge their debt or voluntarily sell their property to satisfy the lender, leading it to initiate foreclosure proceedings again. In this respect, the authors, who were seeking the nullification of the award of the loan in 1987, challenging the lawfulness of the proceedings and requesting the cancellation of their debt, filed four challenges, on 23 July 2004, 29 May 2009, 20 February 2012 and 24 October 2013. It is clear from all the decisions that were taken that the challenges filed by the authors were considered, that their rights were respected during the consideration of those challenges and that they were rejected only because they were unfounded.

5.6 With regard to the Office of the Mortgage Registrar's refusal to register the Court of Cassation's decision of 21 September 2000 nullifying the first sale at auction at the Office, a refusal that, according to the authors, deprived them of their rights to their property, the State party maintains that counsel for the authors did not follow the rules, as their registration application was incomplete. The refusal with which the authors found fault was therefore lawful. At no time did the authors make use of the remedies available to contest this refusal.

5.7 With regard to the claim of arbitrary interference with the authors' privacy because of the constant threat of the seizure of their property, the State party submits that this situation is simply a consequence of the proceedings criticized by the authors. These proceedings have been shown not to be contrary to the provisions of the Covenant. In support of their claim that their honour and reputation have been attacked, the authors refer to the case *Sayadi and Vinck v. Belgium* (CCPR/C/94/D/1472/2006), but the State party is of the view that the circumstances are comparable neither with regard to the nature of the alleged attack nor with regard to its seriousness. The procedure for the sale at auction of the authors' property has been shown not to have been contrary to the provisions of the Covenant. Furthermore, the

authors produce no evidence of an attack on their honour or on the reputation they enjoy in their village.

5.8 The State party maintains that the claim of a violation of the right to a fair trial and the right to the enforcement of a court decision has not been considered under a domestic procedure of settlement and that domestic remedies have therefore not been exhausted.²⁶

5.9 The authors believe that their right to a fair trial was violated because of the “lack of impartiality” of the judge of the Draguignan court and they complain that the proceedings were excessively lengthy. The State party submits that the mere fact that the judge in question had rendered several decisions unfavourable to the authors before handing down the judgment of 11 September 1998 is in no way sufficient to establish the alleged lack of objective impartiality. They do not indicate why this judge might have wanted to disadvantage them and they have not shown that this judge had any interest in *Crédit foncier de France*. The authors should have petitioned for his removal. In fact, it is the judge’s reasoning itself that the authors are contesting. However, a mistake of law, assuming that such a mistake has been made, does not in itself imply that the judge who makes it lacks impartiality. The authors do not show or even claim that, in the proceedings before the Court of Cassation, they invoked the partiality of the judgment of 11 September 1998. In any event, the judgment of 11 September 1998 was overturned by the Court of Cassation’s judgment of 21 September 2000 for a completely different reason – namely, a failure to respect the norms governing the adversarial justice system. The authors cannot claim that a decision overturned by the domestic courts violates the provisions of the Covenant.

5.10 The authors maintain that both the Draguignan court, in its judgment of 24 February 2012, and the Court of Cassation, in its judgment of 11 July 2013, committed an “obvious error”. According to the State party, the authors requested the nullification of the proceedings because the possible hearing of 30 July 2004 had been postponed to 24 September 2004, which is not permitted under judicial precedents. It is apparent from the judgment that was criticized that the authors, arguing that the possible hearing had not been held on the scheduled date, had requested that the foreclosure and the other proceedings against them be declared null and void. The record of the hearing of 30 July 2004 shows that this possible hearing was held and that it was postponed only once. The authors’ claim was therefore irresponsible, as was found by the Court of Cassation on 11 July 2013. The State party submits that failure to hold the possible hearing on the scheduled date is not, in the absence of challenges to successive decisions to postpone the hearing, a reason to request the reversal of a judgment involving an adjudication of the claims. The authors do not show in any way how the decisions they have criticized are vitiated by a mistake of law or manifest error. The aim of their criticism is, in reality, simply to call into question the legitimacy of an adjudicated matter they cannot pursue any further.

5.11 The State party, referring to the excessive length of the proceedings, points out that the reasonableness of the length of judicial proceedings should be assessed on a case-by-case basis, taking into account the complexity of the case, the conduct of the respondent and the way in which the administrative and judicial authorities have handled the case. The authors argue that the litigation began in 1987 and ended with the Court of Cassation’s decision of 11 July 2013, of which they are critical.²⁷ According to the State party, the authors’ arguments that the proceedings for foreclosure on their property lasted 26 years are unfounded. Between 1987 and 2013, a very large number of proceedings were initiated by or against the authors, and only two of them relate specifically to the seizure of their property: the first foreclosure proceedings initiated by *Crédit foncier de France* in April 1998, which ended with the decision of the Court of Cassation in September 2000 to declare the first auction order null and void, and the second such proceedings, which were initiated by the *Compagnie de financement foncier*, to which the rights of *Crédit foncier de France* had been transferred, in May 2004 and lasted until 11 July 2013, when the Court of Cassation rendered the judgment the authors have found fault with. The length of the two proceedings that the authors have criticized was clearly justified, particularly in view of the possibilities of appeal that they

²⁶ See *Deperraz and Delieutraz v. France* (CCPR/C/83/D/1118/2002) and European Court of Human Rights, *Mifsud v. France* (application No. 57220/00), decision on admissibility, 11 September 2002.

²⁷ See *Cedeño v. Bolivarian Republic of Venezuela* (CCPR/C/106/D/1940/2010).

availed themselves of. The State party notes that the Draguignan court, in its judgment of 20 June 2014, ordered the authors to pay the Compagnie de financement foncier €1,500 for vexatious litigation.

5.12 The State party considers the allegation of a violation of the right to the enforcement of the Court of Cassation's judgment of 21 September 2000, and thus of articles 2 (3) and 14 of the Covenant, unfounded for the same reasons as those previously put forward in relation to the Office of the Mortgage Registrar's refusal to record the judgment of the Court of Cassation. As for the alleged violation of the authors' right to full compensation for damages caused by the violation of articles 14 and 17 of the Covenant, the State party submits that these grievances cannot form the basis for any claims for monetary compensation, as they are unfounded. In addition, the claims concerning the alleged damages have not been made before the domestic courts and there is no causal link between the damages and these grievances. The authors report not only legal fees relating to the two foreclosure proceedings but also to the rent not paid by their tenants, to the amount they paid to find other housing and to the loss of income from the sale of their property and the sums paid to their creditors. The amounts the authors paid do not concern the two foreclosure proceedings alone, which are the only two proceedings at issue in this communication. The alleged irregularity of the foreclosure proceedings could therefore not justify an award of compensation by the domestic courts.

5.13 With regard to the alleged violation of article 7 of the Covenant, the State party notes that the authors repeat claims that they have already made and that do not suggest that they were subjected to any treatment that could be described as inhuman or degrading.

5.14 No evidence is provided for the authors' allegations of an attack on their honour and reputation or the judge's lack of impartiality. Similarly, they provide no specific information on the harassment to which they were allegedly subjected by bailiffs. The State party noted, in addition, that the Office of the Mortgage Registrar's refusal was fully justified. The length of the proceedings is explained by the possibilities of appeal that, in accordance with the Covenant, the authors availed themselves of. The costs of the proceedings cannot constitute inhuman or degrading treatment. The alleged loss of their home is, for its part, nothing other than the outcome of foreclosure proceedings conducted in accordance with the Covenant.

5.15 The State party requests that this communication be declared inadmissible or dismissed as unfounded.

M.F.'s comments on the State party's observations on admissibility

6.1 In her comments of 21 January 2017, M.F. submits that the communication is admissible *rationae materiae* and that she and her late husband, who died on 17 July 2015, have exhausted all remedies within the meaning of article 5 (2) (b) of the Optional Protocol.

6.2 The underlying presence of a right to property is not an obstacle to admissibility *rationae materiae* as long as the rights whose violation is alleged are protected under the Covenant. That the right to property is not enshrined in the Covenant does not mean that the author of a communication should refrain from invoking an article of the Covenant simply because invoking it could be seen as akin to invoking a right to property.²⁸

6.3 The author submits that the repossessed house was indeed their home within the meaning of article 17 of the Covenant and that the State party cannot take the view that a home that is no longer occupied because of wrongful action by the State party should no longer be protected under the Covenant. Had it not been for all these legal proceedings, which were very costly, and had their house not been sold at auction, the authors would never have stopped living in it. The house has always been their home, except when they rented it out in an attempt to ensure that the courts would allow them to keep it. The authors moved into the house in August 1990, rented it out in 1996 and returned to it in 1997. They rented it out again in June 1998. In June 2008, the authors moved back in and stayed until they were forced out in 2013. There is no reason to consider the authors' house their home for the period from 1998 to 2013 alone, as the State party does. On 14 June 1990, when the Draguignan court

²⁸ *Simunek et al. v. Czech Republic*, paras. 11.3 and 12.1, and *Czernin v. Czech Republic*, para. 6.7.

handed down a judgment setting off the proceedings that would follow, they were living in the house.

6.4 M.F. is of the view that she has exhausted all available domestic remedies. With regard to article 17 of the Covenant, and referring to the case *Kavanagh v. Ireland* (CCPR/C/71/D/819/1998, para. 9.3), she contends that the main purpose of all the proceedings that she and her husband instituted or went through was to prevent the seizure of, and thus arbitrary interference with, their home. She therefore concludes that they have exhausted domestic remedies with respect to the violation of article 17 of the Covenant.

6.5 With regard to article 14 of the Covenant, the author maintains that, in substance, she and her husband raised Judge X's lack of impartiality before the Court of Cassation.²⁹ Before the Draguignan court and thus before Judge X, the authors could not express their fear. They needed this court, which handed down 18 judgments in the proceedings to which they were parties, to defend themselves from their adversaries. The Court of Cassation was not mistaken since, in its ruling, it overturned the judgment in question on the grounds that it "did not appear from either the judgment or the evidence that *Crédit foncier de France* invoked the absence of a date and signature". M.F. concludes that domestic remedies in connection with the judge's lack of impartiality have been exhausted.

6.6 Article L141-1 of the Code of Judicial Organization would not have provided for a useful or effective remedy within the meaning of article 5 (2) (b) of the Optional Protocol. The Draguignan court would have had jurisdiction if such a remedy had been sought. In view of the authors' reputation with this court, such an approach would have been bound to fail. Opting for this possible remedy would have involved an appeal of the lower court's decision, and M.F. had no resources other than the survivor's pension benefit to which she was entitled through her late husband. Moreover, bringing the action before the court, after 25 years of proceedings, would have exceeded any reasonable time limit. The possibility of appeal provided by article L141-1 would not have enabled the authors to pursue all their claims, in particular those relating to arbitrary interference with their home. With the exception of the issue of time limits, article L141-1 covers only what are referred to as serious miscarriages of justice. Justice is not the only issue at stake, as M.F. also complains about the inaction of the Office of the Mortgage Registrar. An action based on article L141-1 would have been ineffective unless the claim is that the authors should have turned to the Draguignan court for relief in connection with the failure to resolve matters within a reasonable time and to the Committee for everything else. Under French legal precedents, there is no right to compensation for failure to render justice within a reasonable time when a case can be described as complex. It is very easy to assert that the sale at auction of the authors' homes was a complex operation. There is no decision by the Court of Cassation that would make it possible for an individual to be awarded compensation for violation of the right to trial within a reasonable time in a case deemed complex. M.F. therefore concludes that article L141-1 of the Code of Judicial Organization is ineffective in her case.

6.7 M.F. points out that her lawyers expressly invoked, on numerous occasions, the right to a fair trial with reference to article 6 of the European Convention on Human Rights – that is, the equivalent of article 14 of the Covenant³⁰ – before the Court of Cassation³¹ and the Court of Appeal.³² The right to a fair trial was always part of the arguments, in fact and in law, in accordance with the case *Kavanagh v. Ireland*, before most of the courts conducting the proceedings, including the highest national court. M.F. is therefore of the view that she has exhausted all possible remedies in respect of the right to a fair trial.

6.8 The claims relating to articles 2 (3), 7 and 17 of the Covenant could not have been considered by the French courts until all the proceedings had been seen through to completion, since these claims concern the impact of all these proceedings on the authors' lives. The State party criticizes their failure to avail themselves of the possibility of appeal provided by article L141-1 of the Code of Judicial Organization. As noted above, this article would not have made it possible to obtain compensation for damages, including those caused by the Office

²⁹ Exhibit No. 79.

³⁰ *Kollar v. Austria* (CCPR/C/78/D/989/2001), para. 8.6.

³¹ Exhibit No. 71, pp. 5 and 16.

³² Exhibits No. 61 and No. 66.

of the Mortgage Registrar. Moreover, such a procedure would have required bringing an action before the Draguignan court that was the source of their troubles. After 25 years of legal proceedings, the authors cannot be blamed for having refused to avail themselves of a possible remedy that would have resulted in compensation for only some of the claims they have made in respect of their rights under the Covenant.

M.F.'s comments on the merits

7. On 9 March 2017, M.F. submitted comments rebutting the State party's arguments on lack of substantiation, stating again that sufficient evidence corroborating the allegations of violations of articles 2 (3), 7, 14 (1) and 17 of the Covenant has been provided.

Additional observations by the State party on admissibility and the merits

8. On 19 April and 24 August 2017, the State party reiterated its argument that the foreclosure proceedings were conducted in a reasonable manner in the particular circumstances, which showed the necessity and proportionality of the forced sale of the authors' property. As for the impossibility of selling the property because of the refusal of the Office of the Mortgage Registrar to enter the Court of Cassation's judgment of 21 September 2000 in its records, it should be noted that this refusal was the fault of the authors alone. The State party also points out that the right to property is not guaranteed by the Covenant and that even if M.F. adds that article 6 (1) of the European Convention on Human Rights has been invoked, she does not show that she has complained before the domestic courts of a lack of impartiality, a denial of justice of the sort outlined in her submissions or the excessive length of the proceedings. The State party therefore reiterates its arguments on the inadmissibility and lack of substantiation of the communication.

Additional comments by M.F.

9. On 16 April 2018, M.F. noted with satisfaction that the State party had finally acknowledged that the authors' house was indeed their home – she added that they could not sell their home to pay off the debt because it had been repossessed and/or they were not the legal owners – and that between 1996 and 2003 the authors did make regular payments to the institution holding the mortgage.

Issues and proceedings before the Committee

Consideration of admissibility

10.1 Before considering any claim contained in a communication, the Human Rights Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

10.2 As required under article 5 (2) (a), of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.³³ The Committee notes that the authors lodged an application with the European Court of Human Rights on 3 October 2014. Their application was found inadmissible, for no specific reason, by a single judge. The Committee recalls its jurisprudence, according to which reservations of the kind made by France do not apply to applications rejected by the European Court of Human Rights on procedural grounds alone. As the State party has not contested the admissibility of the communication on the grounds that it is being examined under another procedure, the Committee is of the view that it is not precluded by article 5 (2) (b) of the Optional Protocol from considering the present communication.

10.3 The Committee recalls its jurisprudence to the effect that authors must avail themselves of all domestic remedies in order to fulfil the requirement of article 5 (2) (b) of the Optional Protocol, insofar as such remedies appear to be effective in the given case and

³³ France has entered a reservation to the Optional Protocol.

are de facto available to the author.³⁴ The Committee notes that the State party has contested the admissibility of the communication because the authors, in essence, never invoked before the domestic courts the violations they have alleged before the Committee.

10.4 The Committee examines the arguments made by both parties in the order in which the allegations are presented by the authors.

a. Right to privacy

10.5 The Committee takes note of the authors' arguments that they have been subjected to arbitrary interference with their home, in violation of article 17 of the Covenant, in that it has twice been taken from them by court order. They are also of the view that their honour and reputation have been attacked. The State party, on the other hand, believes that the disputed house does not qualify as a home. The Committee notes that, according to the authors, the property concerned should be considered their second home and that if they did not always live in it, it was not their fault. The authors' house has always been their home, except when they rented it out in an attempt to ensure that the courts would allow them to keep it. The authors moved into the house in August 1990, rented it out in 1996 and returned to it in 1997. They rented it out again in June 1998. In June 2008, the authors moved back in and stayed until they were forced out in 2013. They thus lived in it for 12 years during the various proceedings that they were parties to. They also point out that they have exhausted all possible domestic means of regaining ownership of the house that was sold at auction, while also seeking protection from arbitrary interference with their home. With regard to this claim, the Committee is of the opinion that interference with the home is compatible with article 17 of the Covenant if it is provided for by law, consistent with the aims and objectives of the Covenant and reasonable in the particular circumstances.³⁵ In this case, *Crédit foncier de France* and, later, the *Compagnie de financement foncier* were obliged to seek payment of the debt they held by requesting the seizure and sale of the property burdened by the mortgage. The forced sale was ordered to ensure that their rights were respected. The Committee further considers that the authors have failed to demonstrate that the foreclosure proceedings did not adhere to the proportionality principle or that they were unreasonable in view of the particular circumstances of the case. It notes in this regard that the authors had the opportunity to settle their debt over the course of the years all these proceedings lasted. In addition, several court decisions, one after the other, addressed the authors' arguments, and as a whole the deliberations raised facts and issues that are currently before the Committee.³⁶ Even if it is not precluded by article 5 (2) (b) of the Optional Protocol from considering this claim, the Committee is of the view that the authors have not sufficiently substantiated it and considers it inadmissible under article 2 of the Optional Protocol.

b. Right to an impartial judge

10.6 With regard to article 14 (1) of the Covenant, the authors believe that their right to property is a civil right, violated on three occasions because of the lack of impartiality of one of the judge's ruling on their case and of the denial of justice resulting from the lack of effective redress. They also complain about the excessive length of the proceedings, as bringing proceedings to a conclusion within a reasonable time is a component of the right to a fair hearing as it relates to rights and obligations in a suit at law. The Committee is indeed of the opinion that, in a suit at law, delays that cannot be justified by the complexity of the case or the behaviour of the parties detract from the principle of a fair hearing enshrined in article 14 (1) of the Covenant.³⁷

10.7 With regard to judge X's alleged lack of impartiality, the Committee notes the State party's argument that this claim was not made before the domestic courts and that the mere fact that the judge in question issued several decisions unfavourable to the authors is not

³⁴ *Warsame v. Canada* (CCPR/C/102/D/1959/2010), para. 7.4, and *P.L. v. Germany* (CCPR/C/79/D/1003/2001), para. 6.5.

³⁵ *Vojnović et al. v. Croatia* (CCPR/C/95/D/1510/2006), para. 8.5.

³⁶ *Kavanagh v. Ireland*, para. 9.3.

³⁷ Human Rights Committee, general comment No. 32 (2007), para. 27, *Muñoz Hermoza v. Peru* (CCPR/C/34/D/203/1986), para. 11.3, and *Fei v. Colombia* (CCPR/C/53/D/514/1992), para. 8.4.

sufficient to establish the alleged lack of impartiality. In addition, the authors never filed a motion for the removal of the judge. The Committee notes, in fact, that the authors have always had the opportunity to appeal the judge's decisions and have done so successfully at least once with the Court of Cassation's decision of 21 September 2000. The Committee finds that the authors have not exhausted the available remedies, within the meaning of article 5 (2) (b) of the Optional Protocol, relating to the allegations concerning the lack of impartiality of judge X and have not sufficiently substantiated their claim in this regard. The Committee therefore considers the claim inadmissible under article 2 of the Optional Protocol.

c. Reasonable time period

10.8 The Committee further considers that even if the proceedings initiated by the authors have been considerably prolonged, extending over a period of 26 years, they cannot be considered to be unreasonably prolonged within the meaning of article 5 (2) (b) of the Optional Protocol, since the length of the domestic proceedings is mainly the consequence of the series of appeals filed by the authors contesting the two decisions of the judicial authorities ordering the seizure and sale of their house at auction because of their failure to repay the loan obtained for its construction. This delay is therefore not attributable to the State party.

10.9 In this context, the Committee observes that the State party considers that the authors have failed to exhaust all available domestic remedies, as they did not invoke, or did so only indirectly, the alleged violations of article 14 (1) of the Covenant before the domestic courts and did not seek specific remedies for the allegedly excessive length of the legal proceedings or the lack of full compensation for lost property. The authors were of the view that any attempt to seek such remedies was bound to fail, not least because article L141-1 of the Code of Judicial Organization, which covers only what are referred to as serious miscarriages of justice, does not, in this case, provide for a useful and effective remedy within the meaning of article 5 (2) (b) of the Optional Protocol. As the Committee has repeatedly acknowledged, a State party generally cannot be held accountable for the errors or omissions of authors or of an independent legal adviser. The Committee also recalls its jurisprudence to the effect that mere doubts about the effectiveness of domestic remedies do not absolve authors of communications of the requirement to exhaust them.³⁸ Accordingly, the Committee considers that it is precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication.

d. Violation of article 7 of the Covenant

10.10 Furthermore, the authors believe that the combination of violations that they were subjected to, including the ultimate loss of their home, amounts to a violation of article 7 of the Covenant. In response, the State party notes that none of these allegations suggests, in itself, that there was any treatment that could be described as inhuman or degrading, as there was no evidence for most of the allegations, and the other alleged violations turned out to be warranted actions. The Committee is of the view that, in this regard, the violations complained of by the authors are largely the result of the outcome of the various legal proceedings in which they were involved. As the authors have not sufficiently substantiated their claim in this regard, the Committee considers it inadmissible under article 2 of the Optional Protocol.

e. Right to enforcement of a court decision

10.11 The authors also claim that articles 2 (3) and 14 (1) and of the Covenant were violated because they were unable to exercise their right, arising from the right to be heard by a judicial authority, to the enforcement of a court decision.

10.12 The Committee notes, however, the State party's argument that the refusal to register the Court of Cassation's judgment of 21 September 2000 nullifying the first sale at auction at the Office of the Mortgage Registrar was caused by the failure of counsel for the authors to follow the rules, as their registration application was incomplete. In that case, the contested

³⁸ *D.G. et al. v. the Philippines* (CCPR/C/128/D/2568/2015), para. 6.3.

refusal to proceed with the registration was lawful. In this respect, the Committee also notes that the authors themselves acknowledge that *Crédit foncier de France* later had the names of the authors published at the Office of the Mortgage Registrar as the true owners. The Committee therefore finds that the authors have not sufficiently substantiated their claim in this regard and that it is inadmissible under article 2 of the Optional Protocol.

f. Right to full reparation for all damages caused

10.13 The authors are also of the opinion that article 2 (3) of the Covenant was violated, as they have not obtained full reparation for all the harm caused by the violation of articles 14 (1) and 17. The State party considers these claims unfounded, as no application for compensation has ever been submitted to the domestic courts. Moreover, the damages alleged by the authors are connected, in the State party's view, not to these claims but to legal fees incurred as a result of proceedings in addition to the two proceedings for the seizure and sale at auction of their home

10.14 The Committee notes that the damages in question relate to the legal fees for the various proceedings to which the authors were parties and are a natural consequence of their exercise of their rights. Accordingly, in the absence of any further information on the exhaustion of domestic remedies relating to a full remedy and on the unreasonableness of these fees, the Committee considers that it is precluded by article 5 (2) (b) of the Optional Protocol from examining the present communication, and that the authors have not sufficiently substantiated their claim in this regard; it therefore considers the claim inadmissible under article 2 of the Optional Protocol.

11. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol;

(b) That the present decision shall be communicated to the State party and the author.

Annex

[Original: English]

Individual opinion of José Manuel Santos Pais (partially dissenting)

1. I concur with the Committee's decision regarding the different claims submitted by the authors, with the exception of the claim relating to the excessive length of the judicial proceedings. There, the Committee concluded that the authors had failed to exhaust available domestic remedies, as they did not invoke the alleged violations of article 14 (1) of the Covenant before the domestic courts, or did so only indirectly, and did not seek specific remedies for the allegedly excessive length of the legal proceedings or the lack of full compensation for lost property.
2. M.F. argues that some aspects of the alleged violations of the right to a fair hearing and the right to a full and effective remedy have been indirectly raised before the domestic courts. She nonetheless admits that she and her husband did not seek specific remedies for the allegedly excessive length of the domestic legal proceedings or for the lack of full compensation for lost property, as they were of the view that any attempt to seek such remedies was bound to fail, not least because article L.141-1 of the Judicial Code, which covers only what are referred to as serious miscarriages of justice, does not, in this case, provide for a useful and effective remedy within the meaning of article 5 (2) (b) of the Optional Protocol. I agree with her conclusion that article L.141-1 of the Judicial Code does not seem to cover the right to compensation in complex cases.
3. Only two of the proceedings in which the authors were involved relate directly to the repossession of their property – namely, the first foreclosure proceedings, initiated by the mortgage holder in April 1998 and brought to an end with the Court of Cassation judgment of September 2000, and the second such proceedings, initiated by the Compagnie de financement foncier in May 2004, which lasted until 11 July 2013, when the Court of Cassation rendered its judgment.
4. It is however to be noted that the four types of proceedings in which the authors participated – against the lending institution, the contractor, the lawyer and his insurer, and the tenant – were closely interrelated and interdependent and, according to the authors, lasted for 26 years (1987–2013). After such a long period, to require the authors to submit before the French courts yet another claim, for the excessive length of the proceedings, seems unreasonable and would only increase an already excessive delay. So, I do not consider that the authors had to exhaust domestic remedies for this claim, since the remedy would, in itself, be ineffective.
5. Even taking into consideration only the proceedings relating to the authors' property and the loan they had taken out from Crédit foncier de France, these began in 1998 and lasted until 2013, therefore for 15 years. And indeed, several contradictory decisions, which had a direct impact on the result of the proceedings, were handed down by the State party's courts during this period.
6. On 11 September 1998, the judge ordered the sale of the authors' home. This decision however was overturned by the Court of Cassation on 21 September 2000.
7. In a letter of 16 July 2001, the authors learned that the Draguignan Office of the Mortgage Registrar had refused to list the house in their name, but a judgment of 27 June 2002 recognized that the sale at auction, following the decision of 11 September 1998, was null and void.
8. On 6 September 2005, the Marseille Tribunal de Grande Instance found that Crédit foncier de France was at fault and had caused the authors to suffer compensable damage. However, the court did not determine the exact amount that the authors should be awarded in compensation. On 1 December 2006, the Court of Appeal of Aix-en-Provence acknowledged again the harm that had been done to the authors by Crédit foncier de France.

9. The authors asked the lawyer who had been in the wrong to cover the overpayment after the 1993 decision, because they were not represented at the hearing and had no one to defend their interests. The Court of Appeal of Nîmes did not rule on that claim until 18 January 2001, but then confirmed the judgment of 17 November 1997, in which the lawyer and his insurer had been ordered jointly and severally to pay the authors compensation.

10. On 20 October 2000, the authors sent the tenant an order for payment of the unpaid rent, but her eviction was not ordered by the Court of Appeal of Aix-en-Provence until 6 September 2005. The tenant did not vacate the premises until 31 March 2007.

11. The reasonableness of the length of judicial proceedings should be assessed on a case-by-case basis, taking into account the complexity of the case, the conduct of the respondent and the way in which the administrative and judicial authorities acted.

12. It is clear, although the different proceedings were complex, that they were indeed prolonged, lasting for 26 years, with various twists and turns, with several decisions favourable to the authors, while others, being unfavourable, had to be challenged.

13. I would therefore have concluded that the domestic administrative and judicial authorities bear a significant proportion of the responsibility for the excessive length of the proceedings, which ended with the authors losing their home, and would thus consider that the State party violated the authors' rights under article 14 (1) of the Covenant.
