FIFTH SECTION CASE P.C. and M.N. v. FRANCE (Applicants Nos. 56513/17 and 56515/17) JUDGMENT Art 8 • Private and family life • Refusal by domestic courts to examine the applicant's action, claiming to be the biological father of a child, to challenge the paternity legally established for the purpose of establishing his or her father, in application of the rules for the calculation of the five-year period of foreclosure combined with the obligation of attrition in the case of the child • Complainant who did not act as soon as he or she was aware of the paternity when he or he had sufficient time to initiate an action • Complainant having delayed bringing the child into the case without having been able to ignore the existence of this constant rule in domestic law • Findings of domestic courts neither arbitrary nor unreasonable • Refusing based on a link of filiation already established for and with regard to the child's best interests • Judicial decisions which did not result in practice in depriving him or her of his rights 12 October 2023 This judgment will become final under the conditions laid down in Article 44 § 2 of the Convention. It may be subject to editorial changes.JUDGMENT C.P. and M.N. v. FRANCE 1In the case of P.C. and N.C, France, The European Court of Human Rights (Fifth Section), sitting in a chamber composed of: Georges Ravarani, President, Carlo Ranzoni, M■rtiiš Mits, Stéphanie Mourou-Vikström, María Elósegui, Mattias Guyomar, Mykola Gnatovskyy, Judges, and Martina Keller, Deputy Section Registrar, Having regard to: the applications (Nos. 56513/17 and 56515/17) against the French Republic, of which two nationals of that State ("the applicants") brought an action before the Court under Article 34 of the Convention for the Protection of Human and Fundamental Freedoms ("the Convention") on 1 August 2017, the decision to bring the applications to the knowledge of the French Government, the observations of the parties, After having deliberated in the Chamber of Council on 19 September 2023, renders the judgment as follows, adopted on that date: INTRODUCTION to the domestic courts of the International Convention 1. 2. The complainant and the complainant were born in 1965 and 1967 respectively and resided in Paris and were represented by Mr. P. Spinosi, a lawyer in Paris. 3. The Government was represented by his agent, Mr. F. Alabrune, Director of Legal Affairs at the Ministry of Europe and Foreign Affairs. 4. The applicant and his former companion lived together from 15 July 2005 until the beginning of March 2012. During their common life, two children were born: the first on 15 July 2006 and the second (hereinafter N.), on 25 December 2007. The latter was recognized by the complainant's former companion before his birth on 4 December 2007.JUDGMENT C.P. and M.N. v. FRANCE 25. At the beginning of March 2012, the applicant left her former companion and entered into a civil pact of solidarity (PACS) with the complainant on 14 March 2012. 6. On 12 December 2012, the complainant referred the matter to the Family Affairs Judge (JAF) for the purpose of determining the measures relating to the two children and asked for the establishment of an alternate residence. During this procedure, she referred to the action in dispute of paternity brought at the same time by the complainant (paragraph 10 below). 7. By a judgment before the right of 25 February 2013, the JAF ordered a social inquiry and, pending the outcome of this investigation, fixed the usual residence of the two child(s) with her former partner, in order to maintain the family in her familiar environment. He explained that, since the separation, the children had remained in the family home and had already undergone many changes in their lives, such as the separation of their parents, 8. At the conclusion of the social inquiry, by a judgment of 26 July 2013, the JAF maintained the principal residence of the children at the applicant's former companion, granting the applicant a right of access and accommodation, extended every Wednesday, from leaving classes on Tuesday until Wednesday evening 7 p.m. 9. By a judgement of 3 February 2015, the Paris Court of Appeal fixed the residence of both children alternately, after noting that the applicant and the legal father were parents very attached to N. and that if the applicant had allowed a complicated personal and family situation to continue, she was a careful mother who had to find a place in the daily lives of the two children. No appeal was lodged against the complainant's decision. 10. In parallel to this action, on 13 November 2012, the applicant sent a letter to the complainant's former companion to tell him that he was N's biological father. On the following day, he appointed N.'s legal father in order to obtain the annulment of his paternity recognition, to have his paternity declared in respect of N. and, in the alternative, that he should be given notice of what he consented to a genetic assessment. The applicant did not enter the N. case until 28 February 2013 and the applicant only on 4 March 2013. 11. By a judgment of 17 December 2013, finding that N. ■s interests were in opposition to those of his parents, the Paris High Court ordered the reopening of the proceedings to appoint an ad hoc

administrator. 12. By a judgement of 21 October 2014, the High Court granted the right at the end of the non-receipt raised by the legal father and the ad hoc director. He declared the action inadmissible in part. paternity on the basis of article 333 (2) of the Civil Code, which provides:JUDGMENT C.P. and M.N. v. FRANCE 3 "...no one, except the Public Prosecutor's Office, may contest filiation where the possession of a state in conformity with recognition has lasted for at least five years since the birth or recognition, if it was made subsequently (...)." 13. On the one hand, he found that the child had been brought in the case only on 28 February 2013, after 25 December 2012, the date of expiry of the five-year period from the birth of the child and, on the other hand, that it was consistent that the action for the challenge of paternity should be directed not only against the father whose filiage is contested but also against the child. The Court held that as of 28 February 2013 the applicant was foreclosure and that he could no longer act against the legal father, the latter being able to rely on possession of the state in accordance with his recognition of paternity for a period of not less than five years. 14. By judgment of 22 Sept. The Court of Appeal of Paris upheld this judgment. The judgment is worded as follows: "the ad hoc administrator of [N.] who met with him twice [has] mentioned in his report of 22 May 2015 that the child [then 7 years of age and almost 5 months of age] did not want to be heard, wishing "to leave him alone"; (...) if a period of less than five years elapsed between the birth of [n.] (on 25 December 2007) and the summons for a finding of paternity initiated by [the applicant] (on 14 November 2012), it is only that on 28 February 2013, it was after that period, that the mother of the minor child (...), was assigned as legal representative of N., while the action in dispute of paternity must be directed against both the [legal] father and the child (...); (...) on the existence of a state possession in conformity with the title, (...) [the applicants] oppose the absence of a peaceful, public and unequivocal nature of the possessors. the child of [the former companion] on the grounds that [N.] learned in 2012 by his mother that he was not a result of the latter's works, that a letter was sent to [the applicant's former partner] on 13 November 2012 informing him of the procedure envisaged, that the summons for the challenge of paternity was issued to [that latter] on 14 [November] 2012 and that the family circle knew that the latter was not the father of [N]; but (...) neither this revelation of the mother to the child nor the issuance of a letter followed by the summoning of the applicant before the expiry of the five-year prefix period cannot be sufficient to destroy the possession of a peaceful and unequivocal continuous state of the child [in respect of the former companion of the complainant] (...); (...) in fact, the child who bears the name of [the applicant' s former companion since his birth], which is recognized by the public authority and by his own family as his father as well as that of the father as the latter justifies it by them attestatio ns produced, has always been treated by [the applicant's former companion] as her son, both during the common life with [the complainant] and after the separation of the couple in March 2012 [N.] (...); (...) it should be noted that the application [for the establishment of the children's residence] of the mother dates from 12 December 2012 at the very moment when [the appellant] had the summons issued in challenge of paternity [and] it is in vain that it is argued that these two proceedings pursue different purposes while both concern the situation of [N];JUDGMENT C.P. and M.N. v. FRANCE 4(...) moreover, regardless of the revelation made [to the legal father] that he would not be the child's biological father as early as 2009, or even 2007, since he always behaved as such; (...) moreover, as the first judges rightly held, the social inquiry of 13 June 2013, carried out at the request of the family court, establishes that the father has invested his paternity with respect to his two children who have an unwavering connection with them; (...) [the applicant] still avails itself of the best interests of the child to have established "his true filiation" whereas the decision of the legislator which, upon the expiry of a period of five years during which the legal Father behaved in a continuous, peaceful and unequivocal manner as the father of the children, has given precedence to the sociological truth, by no longer allowing to search for whether or not he was the biological father can be regarded as contrary to this superior interest; (...) to this e The Court of Cassation rejected the appellants' appeal on 1 February 2017. On the grounds of the absence of foreclosure, the Court of cassation carried out a substitution of grounds in the following terms: "... if the period of foresight provided for in Article 333(2) of the Civil Code may be interrupted by an application to the courts, in accordance with the first paragraph of Article 2241 of the Code, the action for the challenge of paternity must be brought against the father whose filiation is contested and against the child; (...) the court of appeal having found that [N.] did not have to be brought before the court before the courts of appeal. It

follows that the action was inadmissible, the summons of 14 November 2012, directed against the only legal father, with the exclusion of the child, having been able to interrupt the period of foreclosure; (...) by this ground of pure law, substituted, under the conditions of Article 1015 of the Code of Civil Procedure, for those criticized, the decision is legally justified on that ground; (...)" 17. On the ground of the plea alleging violation of Article 8 of the Convention, the judgment is based on the following: "... having found the child's state of possession in respect of [the applicant's former companion], the judgement states that the legislator chose to give precedence to the sociological reality upon the expiry of a period of five years during which the legal father behaved in a continuous, peaceful and unambiguous manner as the child ■s father, which cannot be regarded as contrary to the latter's best interests; (...) the court of appeal was ordered to bring an action within five years of his birth, and therefore the case was inadmissible. Article 332 of the Civil Code provides that paternity may be challenged by providing evidence that the author of the recognition is not the father.JUDGMENT C.P. and M.N. v. FRANCE 5In addition, pursuant to section 311-1 of the same Code, possession of a state is established by a sufficient combination of facts which reveal the relationship of filiation and kinship between a person and the family to which it is said to belong. This article specifies in a non-exhaustive manner the main elements which may be retained, namely: - the fact for the person whose filiage is contested to have treated the child as his or her own, and the fact that he or she considered that person as his father [tractatus]; - the act for the same person to have provided for the upbringing and maintenance of that child [tracttus]; -- the fact of the person having recognized the child to be his or his own in the eyes of the public authority, society or within his family [fama]; and - the child's fact of bearing the name of that same person [name]. 19. According to well established case-law, the meeting of all these elements is not necessary to ensure that the child has been named [named]. 20. Once established, this possession of the state of the child is valid until proof to the contrary (Civ. 1st, 5 July 1988, No. 86-14.489, Bull. civ. I, No. 217, Civ. 1, 16 March 1999, No. 97-11.717, Bulls. cv. I. No. 98 and Civ.1st, 20 Feb. 2001, No. 99-14.566). Therefore, this is a simple presumption that any interested person is entitled to fight by all means (Cv. 1 Feb. 7, 1989, No. 87-16.315, Bull, Cv. cIV. 1, No. 65, and Cv.1, 27 October 1992, Appeal No. 91-11.751, Bull. civil code No. 273). 21. Pursuant to section 311-2 of the Civil Code, this state possession must also be continuous, peaceful, public and non-ambigious. The fact that the child does not reside with both parents, for example because an alternate residence is implemented, cannot prevent the creation of state ownership. It is for the courts on the merits to determine, in the light of the circumstances of the case, whether the facts which characterize a relationship of filiation can usually be noted (Civ. 1, 3 March 1992, No. 90-15.313, Bull. civ. I, No. 69). II. THE POSSESSION OF THE STATE CORROBORATED BY A TITLE FOR FIVE YEARS OBSTACLE TO A CONTESTATION OF PATERNITY 22.JUDGMENT C.P. and M.N. v. FRANCE 6 provisions of the Civil Code relating to filiation in order to secure the bond of parentage and to preserve children from conflicts of filiations. Order No. 2005-759 of 4 July 2005 on the reform of filiiation thus created an article 333 stipulating that, if the possession of a child has lasted five years since the birth or recognition, if it was made subsequently, no one may contest that established filiage. Article 333, paragraph 2, of the civil code, in its wording applicable to the present dispute, reads as follows: "Where possession of the state is in conformity with the title, only the child, one of his father and mother or the person who claims to be the true parent may act. The action shall be prescribed by five years from the day on which possession of state has ceased or the death of the parent whose parentage is in dispute. No one, with the exception of the public prosecutor, may contest filiction when possession of status in accordance with the deedure has lasted for a period of time. This article provides for a period of time called for forcible or prefix, after which the action is considered to have been terminated. Unlike the limitation, it is a matter of consolidating a situation and not of penalising the negligence of a party to exercise his rights. 24. The period of foreclosure is generally presented as a strict time limit since it is insensitive to interruption and must be lifted ex officio by the judge, in accordance with Article 125 of the Code of Civil Procedure. Furthermore, if, at the time of the judgment of the court, the situation which led to the application for that purpose of non-receipt is likely to be regularised, the latter must intervene before the expiry of the time limit (see, for example, for case-law already established at the moment of the facts and a contrario Civ. 1st, 14 January 1997, Appeal No. 94-19.367, Bull. civ. I, No. 11, as regards inadmissibility for failure to fulfil the requirements of ag. 25. Furthermore, on the basis of Article 8 of the

Convention, the Court of Cassation considers that, if the application of a period of foreclosure or a limitation period limiting the right of a person to have his or her parentage recognized constitutes an interference in the exercise of the right to respect for his or his private and family life guaranteed in Article 8of the Convention the termination of the opposition provided for in Article 333 of the Civil Code pursues a legitimate aim, in that it tends to protect the rights and freedoms of third parties and legal security. Case-specific, whether or not to conclude that there had been no excessive infringement with regard to the purpose pursued (see, for a case-law already established at the time of the facts, Civ. 1st, 6 July 2016, Appeal No. 15-19.853, Bull.JUDGMENT C.P. and M.N. v. FRANCE 7III. ACTIONS IN CONTEST OF PATERNITY APPLY TO THE CAUSE OF THE CHILD 26. The action in dispute of paternity established by a title corroborated by the possession of the State implies attrition in the case, in addition to the author of the recognition whose filiation is contested, the child and if he is minor his or her legal representatives. If the interests of the minor child appear in opposition to those of his or his legal representatives, an ad hoc administrator must be appointed. Paragraph 3. 1. 2. of paragraph III of the circular of 30 June 2006 of presentation of Order No. 2005-759 of 4 July 2005 on challenges when the title is corroborated through possession of a State, specifies the following: "The action exercised by the parent who claims to be such is directed against the child, and his or its legal representatives; The interests of a minor child shall appear in all cases in opposition with those of its legal guardians; an admin 27. The Court of Cassation therefore finds that the action for the challenge of paternity remains admissible if "... before the expiry of the five-year period provided for in Article 333 of the Civil Code, paragraph 2] has been called to the proceedings by the designated administrator, as required by any challenge of filiation, to represent the minor" (Civ. 1st, 6 November 2013, appeal No. 12-19.269). 28. Article 2241(2) of the civil code, as drafted by Law No. 2008-561 of 17 June 2008, amending the statute of limitations in civil matters, provides that: "The application to the court, even in interim proceedings, interrupts the limitation period and the time limit for for for the foreclosure, the same applies when it is brought before an incompetent court or when the act of referral to the Court is annulled by the effect of a procedural defect." The Court of Cassation considers, in the same sense, that this article applies only in cases of annulment of the act of referral by the effect of a genuine procedural defect, i.e. for simple non-observations of the rules of form of assignment (see, for a case already established at the time of the facts, Civ. 2nd, Notice, 8 Oct. 2015, No. 14-17.952, Com., 26 January 2016, No. 21iv. 2016, Nos. 14-18.952 and No. 10.663).JUDGMENT C.P. and M.N. v. FRANCE 8EN LAW I. JONCTION OF THE REQUESTS 29. In view of the similarity of the subject-matter of the applications, the Court considers it appropriate to examine them together in a single judgment. II. ON THE ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION 30. The applicants complain of the refusal of the domestic courts to examine the applicant's action to challenge the fatherhood of the legal father with a view to establishing the fathership of the applicant. They contend that, by declaring the action inadmissible, the internal courts have applied too rigidly the end of the non-receipt provided for in article 333, paragraph 2, of the Civil Code, by imposing an overly formalist requirement of a purely procedural order. They then consider that these same courts have failed to strike a fair balance between the competing rights and interests at stake. 31. They invoke article 8 of the Convention, which reads as follows: "1. 2. There may be interference by a public authority in the exercise of this right only to the extent that such interference is provided for by law and that it constitutes a measure which, in a democratic society, is necessary for national security, public safety, economic well-being of the country, the defence of order and the prevention of criminal offences, the protection of health or morals, or protection of the rights and freedoms of others." A. Admissibility 32. The Court finds that the applicants complain of a violation of their right to respect for their private and family life. The Court recalls that the concept of "family life" referred to in article 8 of the Convention is not limited to relations based on marriage and may include other de facto "family" ties (Keegan v. Ireland, 26 May 1994, § 44, Series A No. 290, and Kroon et al. v. Netherlands, 27 October 1994, § 30, Series A, No. 297-C). While the relationship between an applicant and the child constitutes a sufficient basis for them to fall within the concept of "family life" referred to in Article 8 § 1 of the Convention, she recalls that she has already held that proceedings for the recognition or challenge of paternity fall under the notion of "privacy" within the meaning of that provision, as they encompass important aspects of the father's identity (Backlund v. Finland, No. 36498/05, § 37, 6 July 2010, Ahrens v. Germany, No 45071/09, § 60, 22 March 2012, Marinis v.

Greece, No 3004/10, § 58, 9 October 2014, andCase C.P. and M.N. v. FRANCE 9L.D. and P.K. v, Bulgaria, Nos. 7949/11 and 45522/13, §§ 54-56, 8 December 2016). 33. In the present case, the Court sees no reason to rule differently on the applicant. It considers that the situation complained of by the applicant falls within the scope of Article 8 of the Convention as it seeks to establish paternity instead of another. It also finds that there is no doubt that the same situation also affects the applicant's family life. The Government does not, moreover, dispute in its last observations the applicability of Article 8, and recognizes that the question before the Court concerns the applicant's right to family life and the right to privacy. 34. The Court further finds that the application is not manifestly ill-founded or inadmissible for another reason referred to in Article 35 of the convention, and declares it admissible. Arguments of the parties (a) The applicants 35. The applicants argue that the application of the provisions of domestic law in the present case did not allow them to challenge the recognition of paternity and to have the biological reality established. On the basis of the judgments of the Shofman v. Russia Court (No. 74826/01, §§ 44-45, 24 November 2005) and Phinikaridou v. Cyprus (No 23890/02, § 65, 20 December 2007), they argue that application of a rigid time limit preventing the exercise of an action for paternity and the excessively formalist use of a purely procedural requirement infringes the very substance of the right to respect for their private life guaranteed by article 8 of the Convention. Judgments of the Court of Kautzor v. Germany (No 23338/09, § 73, 22 March 2012), Jäggi v. Switzerland (No 58757/00, § 38, ECHR 2006-X), and Lacárcel Menéndez v. Spain (No 41745/02, 15 June 2006), the applicants argue that the national authorities, which did not assert the biological truth in the circumstances of the case, failed to strike a fair balance between the various rights and interests at stake, thus violating the Court's established case-law.JUDGMENT C.P. and M.N. v. FRANCE 10(b) The Government 37. The Government maintains that the rules of domestic law applicable to the action for challenge and recognition of paternity, as provided for in the Civil Code, are clear and pursue a legitimate aim, namely to ensure respect for the principle of legal certainty and respect for third parties, by giving priority, on the expiry of a period of five years, to a stable situation corresponding to social reality. In his view, such a stable state possession for five years, which was not seriously contested by the applicants, and the choice of the legislator to have sociological reality prevail at that time cannot be regarded as contrary to the best interests of the child. 39. Second, he considers that the applicant, who claims to be N.'s biological father, had a passive attitude, since he did not initiate the steps to establish a filiation relationship until November 2012, three years after having known that he would be his biological father. Finally, he points out that the court decisions did not result in depriving the applicant of any connection with the child, since an alternate residence between the applicant and the legal father was set up, thus enabling the applicant who lives with the applicant to maintain a sustained relationship with that child. 2. (a) Principles emanating from the case-law of the Court.40 The Court recalls that, in a very similar context to that of the present case concerning the question of the legal status of the child, it held that the State had a wide margin of assessment, in particular in view of the need to strike a balance between competing private or public interests and the absence of a common approach in the laws of the Contracting States, as opposed to the rights of contact or information, where the Court's control is more strict and the margin of appreciation of the weaker State (Ahrens, cited above, § 70, L.D. and P.K. v. Bulgaria, cited earlier, §§ 59-60, and Koychev v. Bulgarian, No. 32495/15, § 56-58, 13 October 2020). However, even in the case of restricted control, the choices made by the State are not exempt from examination by the Court. The Court must examine, in the light of the whole case, the reasons which have been taken into account.JUDGMENT C.P. and M.N. v. FRANCE 11in order to arrive at the solution chosen and to determine whether an appropriate balance has been struck between the various interests involved. In doing so, it must pay particular attention to the essential principle that, whenever the situation of a child is at issue, its interest must take precedence (see, inter alia, Wagner and J.M.W.L. vs. Luxembourg, No 76240/01, §§ 133-134, 28 June 2007, and Mandet v. France, No 30955/12, § 53, 14 January 2016). 41. The interest of the parents nevertheless remains a factor in the balance of the different interests at stake, in particular by ensuring that regular contact with the child is ensured (Neulinger and Shuruk v. Switzerland [GC], No 41615/07, § 134, ECHR 2010). The Court does not, however, have the task of replacing the internal authorities, which benefit from direct relations with all concerned, but to assess from the Convention point of view the decisions which they have rendered in the exercise of their power of appreciation (see among others A. L. 42. In certain cases, the Court

held that, despite the margin of discretion granted to States in this field, Article 8 of the Convention requires that the biological father not be completely prevented from establishing his paternity or excluded from the life of the child, unless there are compelling reasons related to the best interests of the latter to do so. Thus, it held that an absolute impossibility for a man claiming to be the biological parent to seek to establish his paternity, on the sole ground that another man has already recognized the child without considering the particular circumstances of the case and the different interests at stake, disregarded Article 8 (L.D. and P.K. v. Bulgaria, cited above, § 75, and Koychev, cited supra, § 62-68). In other cases the Court found that there was no violation of Article 8 when the refusal to examine the applicants' requests for paternity was a failure to consider the applicants'applications for paternity. 44. The Court shall, inter alia, take into account the decision-making process and verify that the decision contained certain guarantees such as the detailed examination of the facts by the competent authorities, the balance between the various interests at stake by those authorities or the possibility for the applicant to state whether the child already had a link of filiation established but also on other relevant circumstances, such as a stable family life between the child and his or her legitimate mother and father (Ahrens, cited above, § 74 in fine, Kautzor, cited supra, § 77 in fine and Marinis, cited in paragraph 77) or on the assessment by the domestic courts that, in the specific case, the authorization of a search for paternity would not be in the child's interest (Nylund v. Finland (Dec.), No 27110/95, ECHR 1999 VI, Krisztián Barnabás Tóth v. Hungary, No 8494/06, §§ 33-38, 12 February 2013, and Fröhlich v. Germany, No 16112/15, § 62 to 66, 26 July 2018). (Ahrens, cited above, § 76, and Krisztián Barnabás Tóth, supra, §§ 33 and 36).JUDGMENT C.P. and M.N. v. FRANCE 1245. As regards the time limits for taking action or other limitations on the introduction of an action for seeking or challenging paternity, the Court admits that these limits may be justified by the desire to ensure legal certainty and the final character of family relations and thus to protect both the interests of the child and those of the legal fathers, in order to protect them from late complaints (see, for example, Phinikaridou, cited above, § 51 and the case law cited therein, and A.L. vs. Poland, cited earlier, § 64). However, it finds that a rigid period leading to an absolute impossibility to pursue an action in search of paternity, applied independently of the circumstances of the case, infringes the very substance of the right to respect for privacy guaranteed by Article 8 of the Convention (Backlund, supra, §§ 55-57, Grönmark v. Finland, No 17038/04, § §§55 and 57, 6 July 2010, Röman v. Finally, in Konstantinidis v. Greece (No. 58809/09, § 61, 3 April 2014, and Silva and Mondim Correia v. Portugal, Nos. 72105/14 and 20415/15, § 68, 3 October 2017), the Court held that the applicants' vital interest in having the biological truth legally established does not exempt them from complying with the requirements of domestic law and from exercising due diligence in order for the domestic courts to make a fair assessment of the competing interests in question. (b) Application in the present case 47. The refusal to examine the paternity action constitutes interference within the meaning of Article 8 of the Convention. Such interference does not conflict with Article 8 unless, "as provided for by law", it pursues one or the legitimate purposes provided for in paragraph 2 and is, moreover, "necessary in a democratic society". The Court notes in this respect that the appellants do not contest the fact that the interference is undeninvolved. It is also not disputed that the refusal to examine the paternity action was aimed at "the protection of the rights and freedoms of others" and that this objective, aimed at promoting filiation corresponding to social and family reality, may justify a limitation of the possibility of establishing biological paternity (Ahrens, cited above, §§ 74-75, and mutatis mutandis Fröhlich, cited earlier, § 42). 48. The Court finds that the applicants essentially contest the predictability and clarity of the rules concerning the computation of the time limit for for foreclosure, since the applicants argue that the failure to admit the action in question of paternity because of the application of this time limit combined with the obligation to attritrate the child in the present case constitutes, in the particular circumstances of the case, disproportionate interference with the aim pursued by the legislator. in purely procedural order and thus making social reality prevail over the search for the truthJUDGMENT C.P. and M.N. v. FRANCE 13biological, the domestic courts have failed to strike a fair balance between the competing rights and interests in question. 49. The Court must therefore, in the light of the whole of the case, on the one hand, verify whether the rules for computation of the time limit for for foreclosure which led the domestic tribunals to declare the applicant's action inadmissible have been applied in a manner compatible with the Convention and on the other hand, examine whether the decision-making process

which led to the impossibility of contesting filiation established by a recognition of paternity to establish another link of filiations included certain guarantees, in particular if the grounds invoked by those domestic courts were relevant and sufficient, within the meaning of paragraph 2 of Article 8. 50. As regards the application by domestic courts of the rules of computability of the period of foreclusion combined with the obligation to place the child in the case the Court Notes that, in the particular circumstances of the present case, the period of foreclosure did not in practice prevent the applicant from acting earlier, since he acknowledged that he was the child's biological father as early as the end of June 2009 (paragraph 15 above) and that he then had a period of time which appeared to be sufficient to initiate an action for the purpose of asserting his interests, the five-year period for foreclusion expiring on 25 December 2012 (see a contrario, Doktorov, supra, § 29, concerning a short period of one year having expired before the applicant learned of the facts justifying his disavowal of paternity). The Court notes as such that the applicants have not stated, either before the domestic courts or before it, any reason which would have prevented them from acting sooner, when N.n. was then only one year and six months old, thus allowing a stable social situation which they could not now challenge in the present circumstances. The Court further observes that the applicant's action was declared inadmissible, on the ground that the latter had delayed placing in the N. case, and more specifically its legal representative in respect of a child still a minor. Indeed, the applicant did this formality only on 28 February 2013, three months after the initial referral to the court of 14 November 2012. The Court notes that he then had a period of more than one month to regularize his action, the period of foreclosure expiring 25 December 2012, which allowed him sufficient time to comply with the rules of the procedure. The applicants did not submit any evidence in this regard to the domestic courts and the Court of Justice which could demonstrate that the appellant, represented before the court at first instance by a lawyer, could ignore the existence of this constant rule in domestic law, since he could apply both before and after the reform of the law of filiation (paragraphs 18 and 2 In these circumstances, the appellants' argument that the paternity action was dismissed because of a rigid and formalistic application of the procedural rules does not appear to be well founded.JUDGMENT C.P. and M.N. v. FRANCE 1452. The Court also observes, together with the Court of Appeal, that the applicant did not act in dispute with respect to paternity until at the time when the applicant was at the same time seeking the establishment of the residence of N., alternating between her mother and her legal father (paragraphs 6, 10 and 14 above). If the Court is aware that, in certain circumstances, the best interests of the child may be to know her true genetic identity, it observes that the appellant, who contends that there would be no doubt as to the true paternity of N, would have been the person best placed to intervene spontaneously in the proceedings, without waiting to be drawn into it in a forced manner, thus allowing a conflictal and increasingly problematic situation for the child to persist in time (R.L. et al. v, Denmark, No. 52629/11, § 48, 7 March 2017). However, the Court recalls that the applicants' vital interest in ensuring that the biological truth is legally established does not exempt them from these considerations. 53. As regards the quality of the decision-making process, the Court notes first of all that the Court of Appeal has characterized, under the supervision of the Cour de Cassation and on grounds which appear to be relevant and sufficient, the factual elements enabling it, in the circumstances of the case, to verify the existence of a state of possession which is in conformity with the recognition of paternity and of indefectible links between the legal father and the child (paragraph 14 above) and consequently a stable social reality for at least five years (paragraphs 18 and 20 above). 54 The Court also notes that the Court of Appeal based its refusal to consider the applicant's application for challenge of paternity not only on the fact that the child already had a link of filiation established, but also on the best interests of the child, who was then only seven years of age and was taken into consideration in a court of cassation, found that his possession was peaceful, public and unequivocal, and that the mere fact that his legal father knew at some point that there was doubt about his paternity could not in itself call into question the fact he had always behaved as a father to N. The Court observed, as such, that the applicants did not allege that such possession had been acquired by fraud, coercion, pressure or violence (paragraph 20 above). The Court found that N., represented in the proceedings by an ad hoc administrator who had met with him twice, had indicated, through the latter, that he did notJUDGMENT C.P. and M.N. v. FRANCE 15supposed not to be heard by the judges and wanted him to be "leased alone" (paragraph 14 above). The Court therefore considers that the Court of

Appeal, under the supervision of the Cour de Cassation (paragraph 17 above), was able to consider that it was not in the best interests of the child to be confronted with the question of paternity in the light of, inter alia, his young age (Fröhlich, supra, § 64, concerning the case of a six-year-old child), preferring at this stage to keep the child in the family environment to which he had been accustomed since the separation of his legal father and mother (paragraph 14, above). 55. Furthermore, the Court held that the court decisions did not in practice, as the Government points out, depriving the applicant of any connection with N., since, as from 26 July 2013, the domestic courts gradually introduced a wider right of access and accommodation and then alternative residence, allowing him to maintain a sustained link with the child. 56. It follows from all these elements that the domestic tribunals, in the particular circumstances of the case, have, while taking into account the legitimate purpose pursued by the legislator (paragraph 24 above), maintained a fair balance between the various interests in question, without the rules of calculation of the five-year period as they have been applied affecting the very substance of the right to respect for private and family life guaranteed by Article 8 of the Convention. 57. Therefore, there was no violation of those rights (Ahrens, cited above, § 77). 1.Decides unanimously to join the applications; 2.Decides, by unanimity, admissible applications; 3.Tells, by six votes to one, that there has been no violation of article 8 of the Convention.JUDGMENT P.C. and M.N. v. FRANCE 16Done in French, then communicated in writing on 12 October 2023, pursuant to Article 77 §§ 2 and 3 of the Rules of Procedure. Martina Keller Georges Ravarani Deputy Registrar Chairperson This judgment is appended, in accordance with Articles 45 § 2 of the Convention and 74 § 2 thereof, to the separate opinion of Judge Stéphanie Mourou-Vikström. G.R. M.K.JUDGMENT C.P. and M.N. v. FRANCE – SÉPARÉ OPINION 17OPINION DISSIDENTE DE LA JUICE MOUROU-VIKSTRÖM I did not join the majority of the Chamber which concluded that article 8 of the Convention had not been violated in this case, which concerns the procedural requirements for challenging the child and the mother in an action for the challenge of paternity. The reasons which led me to believe that an infringement of the applicant's private and family life must be found are as follows: It appears from the provisions of article 333 (2) of the Civil Code that the time limit for bringing an action to challenge paternity is 5 years. The child being born on 25 December 2007, the time period expired on 25 Dec. 2012. The applicant, as the alleged biological father, formalized an summons for the purpose of nullifying the recognition of the paternity of the legal father, on 14 November 2012, therefore within the legal period. However, it appears that he was attractive in the case of the child on 28 February 2013 and the child, on 28 Feb. 2012 and the However, it should be considered that not only can they be considered as accessories to the main action in dispute of paternity and therefore that a certain flexibility may be allowed with regard to their regularization, but also that the legal basis poses a problem. Indeed, the requirement of challenge does not arise from the law but from a supposedly well-established case law and a circular issued by the Ministry of Justice of 30 June 2006, whose accessibility in the light of the Court's case law is questionable. Finally, while the domestic courts have opposed the applicant's foreclosure by first instance judgment of 21 October 2014, confirmed on appeal on 22 September 2015 and in cassation on 1 February 2017, on the grounds that the respondents should have intervened before 25 December 2012, how to explain q u the court of first instance reopened the proceedings on 17 December 2013 in order to request the appointment of an administrator for the purpose of representing the child? This decision, which requires a challenge after the date of 24 December 2012, can only be understood as a validation by the domestic courts of a regularization which takes place after the day of foreclosure, which is therefore intended to apply only to the main action.JUDGMENT C.P. and M.N. v. FRANCE – SÉPARÉ OPINION 18Finally, the Court of Cassation made a substitution of the grounds for its judgment in respect of the inadmissibility of the action. It referred to article 2241 of the Civil Code, which relates to the causes of the interruption of the period of foreclosure but which is not the textual legal medium requiring the impugning of the child and the mother in the context of the proceedings in question of paternity. Furthermore, the well-established and consistent nature of the case law imposing the imputation of the children and the mothers, within the strict period of five years, in the matter of the challenge of paternity, is subject to discussion, since only one case is cited in the judgment of the Chamber (Civ. 1st, 6 Nov. 2013, appeal No. 12-19.269). In such a sensitive matter as the recognition of paternity it is necessary to recall that the Convention seeks to guarantee, more than in any other field, not theoretical or illusory rights. The procedural

requirement, the legal basis of which cannot be considered established, accessible and foreseeable, and the final non-receipt of the complainant, is likely to lead to a violation of article 8 of the Convention.JUDGMENT P.C. and M.N. v. FRANCE 19ANNEX List of applications No.Application No.Name of the case Introduced by 1. 56513/17 P.P. vs. France 01/08/2017 Patrice SPINOSI 2. 56515/17 M. N. vs. France 1/08/2017 SPINOSI Patrice