FIFTH SECTION AFFAIRS P.C. and M.N. v. FRANCE (Requests Nos. 56513/17 and 56515/17) JUDGMENT Art. 8 • Private and family life • Refusal of the internal courts to examine the action of the applicant, claiming to be the biological father of a child, seeking to challenge the legally established paternity with a view to establishing his/her paternity, in the application of the rules of calculation of the five-year period combined with the obligation to attract the child to the cause • Claimant who did not act as soon as he/she was aware of his/she had a sufficient period of more than three years to initiate an action • Claimer who delayed bringing the child into the case without just cause could have been unaware of the existence of this constant rule in domestic law • Findings of the domestic courts, neither arbitrary nor unreasonable • Refuse based on a link of filiation already established for the child and on the best interests of this last outcome in judicial proceedings • Fair balance between the different interests in the presence of STRASBOURG 12 October 2023 This judgment will become final under the conditions defined in Article 44 § 2 of the Convention. It may undergo changes of form.JUDGMENT C.P. and M.N. v. FRANCE 1In the case of C. P. and Mr. N. c. France, The European Court of Human Rights (fifth section), sitting in a chamber composed of: Georges Ravarani, President, Carlo Ranzoni, M■rti■š Mits, Stéphanie Mourou-Vikström, María Elósegui, Mattias Guyomar, Mykola Gnatovskyy, Judges, and Martina Keller, Deputy Registrar of the Section, Vu: the applications (Nos. 56513/17 and 56515/17) directed against the French Republic and of which two nationals of that State ("the complainants") have brought before the Court under article 34 of the Convention for the Protection of Human rights and Fundamental Freedoms ("the Convention") on 1 August 2017, the decision to bring the applications to the attention of the French Government, the observations of the parties, after having deliberated in the Chamber of the Council on 19 September 2023, renders the judgment which is hereby adopted at that date the Court's jurisdiction under Article 8(1) 2. The applicant and the applicant were born in 1965 and 1967 respectively and resided in Paris. They 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 complainant and her 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 applicant's former companion before her 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 solidarity pact (PACS) with the applicant on 14 March 2012. 6. On 12 December 2012, the complainant brought the family judge (JAF) to determine 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, which the applicant had taken at the same time (paragraph 10 below). 7. By a judgment before saying right of 25 February 2013, the JAF ordered a social investigation and, pending the outcome of the investigation, fixed the usual residence of the two child with the former companion of the applicant, in order to maintain the sibling in his 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, the birth of a half-sister, the move of their mother with the applicant, as well as the revelation made to N. of what two fathers would have. He granted to the applicant a right of visitation and accommodation, one weekend on two and half of the school holidays. 8. At the end of the social inquiry, by a judgment of 26 July 2013, the JAF maintained the primary residence of the children at the applicant's former companion, granting to the latter a right to visitation, accommodation, extended to every Wednesday, from the leaving of classes on Tuesday to Wednesday evening 7 p.m. 9. By a judgment on 3 February 2015, the Paris Court of Appeal fixed the residence of both children alternately, after having noted that the applicant and the legal father were very attached parents to N, and that if the applicant had allowed a complicated personal and family situation to persist, she was a caring mother to find a place in the daily life of the two children. 10. In parallel with this action, on 13 November 2012, the applicant sent a letter to the applicant's former companion stating that he was N.'s biological father. The next day, he assigned N.'s legal father in order to obtain the cancellation of his paternity recognition, to show his fatherhood towards N. and, as a subsidiary, that he be given notice of what he consented to genetic expertise. The applicant put in the case N. only on 28 February 2013 and the applicant only on 4 March 2013. 11. By a judgment of 17 December 2013, noting that N. ■s interests were in opposition to those

of his parents, the Paris Court of First Instance ordered the reopening of the proceedings to appoint an ad hoc administrator. 12. By a decision of 21 October 2014, the Court of Second Instance granted the right not to receive the question raised by the legal father and the ad hoc director. On the basis of Article 333 (2) of the Civil Code, the following provisions shall apply: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 a recognition has lasted at least five years since birth or recognition, if it was made later..." 13. On the one hand, he finds that the child was placed 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 constant that the action in dispute of paternity should be directed not only against the father whose filiation is contested but also against the child. The court deduced from this that the applicant was foreclosed as of 28 February 2013 and that he could no longer act against the legal father, the latter being entitled at that date to possession of the state in accordance with his recognition of paternity for a period of at least 5 years. 14. The judgment is worded as follows: "the ad hoc administrator of [N.] who has spoken twice with him [a] mentioned in his report of 22 May 2015 that the child [then 7 years old and almost 5 months old] did not want to be heard, wishing to "let him be left alone"; (...) if a period of less than five years has elapsed between the birth of [n.] (December 25, 2007) and the declaration of paternity committed by [the applicant] (November 14, 2012), it is not that on 28 February 2013, it is after that period, that the mother of the minor child (...) has been appointed as legal representative of N. while the action in challenge of paternity must be directed both against the father [legal] and against the child (...); (...) on the existence of a possession of a state in conformity with the title, (...) [the applicants] oppose the absence of public character of the non-patent, The child of [the former companion] on the grounds that [N.] learned in 2012 from his mother that he was not a result of the latter's works, that a letter was sent to [the applicant's former companion on 13 November 2012 informing him of the procedure envisaged, that the paternity challenge was issued on [the latter] on 14 [November] 2012 and that the family circle knew that the latter was not the father of [N."]; But (...) neither this revelation from the mother to the child, nor the issuance of a letter followed by the application [of the applicant] before the expiry of the prefixed five-year period could suffice to destroy the possession of a peaceful and unequivocal continuous state of child [in relation to the former companion of the applicant.] (...) In fact, the child who from his birth bears the name of the [the complainant's previous companion] who is recognized by his family as a public authority and thus certified by his father by his own authority as being the father's ns produced, has always been treated by [the applicant's former companion] as her son, both during the common life with the [applicant] and after the separation of the couple, in March 2012, [N.] (...); (...) it should be noted that the application [to fix the residence of the children] of the mother dates from 12 December 2012 at the very time when [the complainant] issued the summons in challenge of paternity [and] it is vain that it is argued that these two procedures pursue different purposes while they 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 biological father of the child as early as 2009, or 2007, since he has always behaved as such; (...) in addition, as the first judges have rightly held, the social inquiry of 13 June 2013, carried out at the request of the family judge, establishes that the father invested his fatherhood in relation to his two children having an unfailing relationship with them; (...) [the applicant] still avails himself of the best interests of the children to see the establishment of "his true filiation" while the decision of the legislator, which, after the expiration of a period of five years during which the legal Father behaved continuously, peacefully and unequivocally as the father of a child, prevailed the sociological truth, by no longer allowing the search to be carried out if he was or was not the biological Father, cannot be regarded as contrary to that interest. (...) The Court of Cassation, on the basis of the absence of foreclosure, shall, unless it is inadmissibility, be directed against the father whose sonship is challenged and against the child; (...) the Court of Appeal having found that [No].. was assigned within five years of his birth, it follows that the action was inadmissible, the assignment of 14 November 2012, directed against the only legal father, excluding the child, having been unable to interrupt the period of foreclosure; (...) by this ground of pure right, substituted, under the conditions of article 1015 of the Code of Civil Procedure, to those criticized, the decision is legally justified from that charge; (...)" 17. On the basis of the violation of article 8 of the Convention, the judgment is reasoned

as follows: " (...) after having found possession of the child's status with respect to [the applicant's former companion], the judgement states that the legislator has chosen to make the sociological reality prevail upon the expiration of a period of five years during which the legal father has behaved continuously, peacefully and unambiguously as the father of the children, which cannot be considered contrary to the superior interest of this court of appeal (...) , which has thus carried out the allegedly omitted search [from the balance of interests in presence], has legally justified its decision ; (...)" THE LEGAL FRAMEWORK AND THE INTERNAL PRACTICE CONTINUING I. THE NOTION OF POSSESSION OF THE STATE CONCERNING THE CHILD 18. Article 332 of the Civil Code provides that paternity may be contested by submitting proof that the author of the recognition is not the father.JUDGMENT C.P. and M.N. v. FRANCE 5In addition, in accordance with article 311-1 of the same Code, possession of a state is established by a sufficient assembly of facts which reveal the link of filiation and kinship between a person and the family to which it is said to belong. This article does not specify in an exhaustive manner the main elements which may be retained, namely: - the fact for the person, whose filiation is contested, that he treated the child as his own and the fact that the child had considered that person as his father [tractatus]; - the act for the same person to have provided for the education and maintenance of that child [tractatum]; and - the doing for that same person of having recognized the child in the eyes of the public authority, society or within his family [fam];- the act of the child to have borne the name of that person [name]. 19. According to a well-established jurisprudence, the assembly of all these elements is not necessary for the purposes of which is necessary. In accordance with Article 311-2 of the Civil Code, this possession of the State must also be continuous, peaceful, 27 October 1992, at paragraph 91-11.751, Bull. civ. I, No. 273). 21. In application of Article 311-2 of the civil code, this ownership of the state must also, by virtue of the principle of non-conformity, be regarded as having been established as being established. It is up to the judges of the fund to assess, in the light of the circumstances of the case, whether the facts characterizing a relationship of filiation can be usually identified (Civ. 1, 3 March 1992, No. 90-15.313, Bull.P.C. and M.N. v. FRANCE 6 provisions of the Civil Code relating to filiation in order to secure the filiation link and to preserve children from filiation conflicts. Order No. 2005-759 of 4 July 2005 on the reform of filiation thus created an article 333 providing that, since possession of a child's status has lasted five years since birth or recognition, if it was subsequently made, no one can contest that established filiation. Article 333, paragraph 2, of the civil code, in its wording applicable to this dispute, is worded as follows: "Where possession of the state is in conformity with the title, only the child, one of his or her parents or the person claiming to be the true parent may act. The action is prescribed by five years from the day on which possession of that state ceased or the death of the parent whose filiation relationship is in dispute. This article provides for a period of time called for for foreclosure or prefix, beyond which the action is deemed to be extinguished. Unlike the statute of limitations, it is a matter of consolidating a situation and not sanctioning the negligence of a party to exercise his rights. 24. The period of foreclosement is generally presented as a strict period since it is inadmissible for interruption and must be raised ex officio by the judge, in accordance with Article 125 of the Code of Civil Procedure. Furthermore, if, at the time of the judge's decision, the situation which led to the use of this purpose of non-receiving is likely to be regularized, the latter must intervene before the expiry of the period (see, for example, for a case-law already established at the moment of the facts and against Civ. 1st, 14 January 1997, appeal No. 94-19.367, Bull. Civ I, No. 11 on the grounds of an inadmissibility for failing quality at age. 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 of a limitation period limiting the right of a person to be recognized as a parent, constitutes an interference in the exercise of the right to respect for his or her private and family life guaranteed by Article 8 thereof, the end of non-receiving the opposite 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. is specific to each case, before concluding or not to the absence of undue harm in relation to the purpose pursued (see, for 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 CONTESTATION OF PATERNITY CALL FOR THE CAUSE OF THE CHILD 26. The action in challenge of paternity established by a title corroborated by the possession of the state implies to attract in the cause, in addition to the author of the recognition whose

filiation is contested, the child and if he is a minor son or his legal representatives. If the interests of the minor child appear in opposition to those of his or her legal representatives, an ad hoc administrator must be appointed. Point 3.1.2. of paragraph III of the circular of 30 June 2006 on the presentation of Order No. 2005-759 of 4 July 2005, concerning the contestations where the title is corroborated with the possession by the state, specifies the following elements: "The action carried out by the parent who claims to do so is directed against the child or his or his/her legal representatives; The interests of a minor child appears in all cases in opposition with those of its legal representatives ; an administrate; The Court of Cassation therefore considers that the action in challenge of paternity is admissible if "... before the expiration of [the] period [of five years provided for in article 333 of the Civil Code, paragraph 2] has been called to the instance the appointed ad hoc administrator, as required by any challenge of filiation, to represent the minor" (Civ. 1st, 6 November 2013, application No. 12-19.269). 28. Furthermore, article 2241 (2) of the civil code, in its wording issued by Law No. 2008-561 of 17 June 2008, on reform of the statute of limitations in civil matters, provides that: "The application in court, even if referred back, interrupts the period of limitation and the period for which the proceedings are instituted, the same shall apply when it is brought before an incompetent court or when the act of referral to the court is annulled by the effect of a breach of the procedure". 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-compliance with the rules of the form of the assignment (see, for a case already established at the time of the facts, Civ. 2nd March, No. 14-17, 2016, para. 10.663).JUDGMENT C.P. and M.N. v. FRANCE 8IN LAW I. JOINING REQUEST 29. In view of the similarity of the subject-matter of the petitions, 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 action of the applicant to challenge the father's paternity with a view to establishing that of the claimant. They argue that, by declaring the action inadmissible, the domestic tribunals have applied too rigidly the aim of non-receiving provided for in article 333, paragraph 2, of the Civil Code, by making excessively formalistic a requirement of purely procedural order. They consider that these same courts did not then strike a proper balance between the competing rights and interests at stake. 31. They invoke article 8 of the Convention, which is worded as follows: "All private persons shall have the right to respect of their family life". 2. There may be interference by a public authority in the exercise of this right only provided 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 security, the economic well-being of the country, the defence of order and the prevention of criminal offences, the protection of health or morals, or the protection for the rights and freedoms of others." A. Admissibility 32. The Court notes that the complainants 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 only to relations based on marriage and may include other de facto "family" links (Keegan v. Ireland, 26 May 1994, § 44, A Series No. 290, and Kroon et al. v. Netherlands, 27 October 1994, § 30, A series No. 297-C). if the existing links between an applicant and the child constitute a sufficient basis for them to be covered by the concept of "family life" referred to in Article 8 § 1 of the Convention, she recalls that she has already considered that the procedures for recognition or challenge of paternity fall within the notion of "privacy" within the meaning of that provision, of the presumed father, since they encompass important aspects of the identity of the latter (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, andIn the present case, the Court sees no reason to rule differently with respect to the applicant. It considers that the situation denounced by the applicant falls within the scope of article 8 of the Convention since it seeks to establish a paternity instead of another. It also finds that the same situation also concerns the applicant's family life. The Government no longer contests, in its last observations, the applicability of article 8, and acknowledges that the question before the Court concerns the complainant's right to family life and the complainant's right to privacy. 34. The Government further finds that her claim is not manifestly well founded or inadmissible for another reason referred to in article 35 of the Covenant. The applicants argue that the application in this case by the domestic courts of the provisions of domestic law did not allow them to challenge the recognition

of paternity and to establish biological reality. On the basis of the judgments of the Court of Shofman v. Russia (No. 74826/01, §§ 44-45, 24 November 2005) and Phinikaridou v. Cyprus (Nos. 23890/02, § 65, 20 December 2007), they argue that application of a rigid time limit impeding the exercise of an action for paternity and excessively formalistic recourse to a requirement of purely procedural order undermines the very substance of the right to respect for their privacy guaranteed by article 8 of the Convention. They consider that the courts have not sufficiently taken into account the particular circumstances of the case, including the knowledge by the legal father of the facts relating to the paternal filiation of N. 36. Based on the arguments of the parties. 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 have 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 constant jurisprudence.The Government contends 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, which is to ensure respect for the principle of legal certainty and respect for third parties, by giving precedence, on expiry of a period of five years, to a stable situation corresponding to social reality. On the basis in particular of the Ahrens judgment (precitation, §§ 72, 73 and 77), the Government also considers that the national courts, by characterizing the factual elements, in the light of the circumstances of the species, of possession of a state in conformity with the recognition of fatherhood having lasted five years have been able to strike a fair balance between the competing interests in the presence of the child. In his view, such possession of a stable state for five years, not seriously contested by the applicants, and the choice of the legislator to then prevail the sociological reality cannot be regarded as contrary to the best interests of the child. 39. Secondly, he considers that the applicant, who claims to be the biological father of N., had a passive attitude, since he did not take steps to establish a filiation link until November 2012, three years after knowing that he would be his biological father. Finally, he points out that the judicial 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 established, thus allowing 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 context very similar to that of the case concerning the question of the legal status of the child, it held that the State had a wide margin of discretion, in particular in view of the need to balance between competing private or public interests and the absence of a common approach in the laws of the Contracting States, as opposed to contact or information rights, where the Court's control is stricter and the discretion of the weaker State (Ahrens, cited above, § 70, L.D. and P.K. v. Bulgaria, cited earlier, § 59-60, and Koychev v.Bulgaria, No. 32495/15, § 56-58, 13 October 2020). However, even in the case of restricted control, the choices made by the State do not escape consideration by the Court.ARRêT C.P. and M.N. v. FRANCE 11 to achieve the chosen solution and to seek if a proper balance has been established between the different interests in the presence of the child. In doing so, it must pay particular attention to the essential principle that whenever the situation of a child is in question, its interest must be primary (see, in particular, Wagner and J.M.W.L. v, 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 remains nevertheless a factor in the balance of the various interests at stake, ensuring in particular that regular contact with the child is possible (Neulinger and Shuruk v. Switzerland [GC], No.416155/07, § 134, ECHR 2010). However, the Court does not have the task of replacing the internal authorities, which benefit from direct relations with all those concerned, but to assess under the angle of the Convention the decisions which they have been rendered in the exercise of their power of others. 42. In some cases, the Court held that, despite the margin of discretion accorded to States in this field, article 8 of the Convention requires that the biological father should not be completely prevented from establishing his fatherhood or excluded from the life of the child, except where there are compelling reasons relating 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 fathership, on the sole ground that another man has already recognized the child without examining the particular circumstances of the species and the various interests at stake, did not recognize article 8

(L.D. and P.K. v. Bulgaria, cited above, § 75, and Koychev, cited earlier, § 62-68). 43. In other cases the Court found that there was no violation of article 8 when the Convention refused to examine applications for paternity. The Court takes into account, inter alia, the decision-making process and verifies that it contained certain guarantees such as the detailed examination of the facts by the competent authorities of the Member State concerned, the possibility of setting out the reasons for the application by the Member States for the exercise of the powers conferred on them by the decision of the competent authority, the exercise by the national authorities of its powers to exercise its powers, not only on the basis of the fact that the child already had an established link of filiation, but also on other relevant circumstances, such as existence of a stable family life between the child and his legitimate mother and father (Ahrens, paragraph 74 in fine, Kautzor, paragraph 77 in fine and Marinis, paragraph77) or on the assessment of the domestic courts according to which, in the concrete case, the authorization of a paternity search would not be in the interest of the child (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 161112/15, § 62 to 66, 26 July 2018). In order to provide him with the necessary protection of his interests (Ahrens, cited above, § 76, and Krisztián Barnabás Tóth, cited below, § 33 and 36).Judgment of the Court of First Instance in Case C-333/95 P. and M.N. v. FRANCE [1995] ECR I-3557, paragraph 51. With regard to the time limits for taking action or other limitations on the introduction of an action for the purpose of seeking or contesting paternity, the Court admits that these limits may be justified by the desire to ensure legal certainty and the finality 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. v Poland, cited below, § 64). It considers, however, that a rigid period leading to an absolute impossibility to pursue an action in search of paternity, applied irrespective of the circumstances of the case, infringes the very substance of the right to privacy guaranteed by Article 8 of the Convention (Backlund, paragraph 55-57, Grönmark v. Finland, paragraph 17038/04, paragraph 53, paragraph 52, paragraph 57, paragraph 59, paragraph 64, paragraph 58, paragraph 48, paragraph 56, paragraph 61, paragraph 54, paragraph 68, paragraph 41, paragraph 67, paragraph 18, paragraph 35, paragraph 36, paragraph 40, paragraph 37, paragraph 25, paragraph 20. Finally, in the cases of 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 ensuring that biological truth is legally established does not exempt them from complying with the requirements of domestic law and from due diligence so that the domestic courts may make a fair assessment of the competing interests in the case. (b) Application in this case 47. The refusal to examine the action in paternity constitutes, in this particular case, an interference within the meaning of Article 8 of the Convention. Such interference does not recognize Article 8 unless, "provided by law", it pursues one or more of the legitimate purposes provided for in paragraph 2 and is, moreover, "necessary in a democratic society". The Court finds that the applicants dispute essentially the predictability and clarity of the rules relating to the calculation of the time limit for forcible confinement. s of purely procedural order and thus making the social reality prevail over the search for truth49. The Court must, therefore, in the light of the whole case, first examine whether the rules governing the calculation of the period of forcibility which led the domestic courts to declare the applicant's action inadmissible were applied in a manner compatible with the Convention and, secondly, examine whether it was impossible for the decision-making process to challenge the filiation established by a recognition of paternity in order to establish another link of filiation contained certain guarantees, in particular whether the grounds invoked by those domestic courts were relevant and sufficient, within the meaning of paragraph 2 of Article 8. 50. notes that, in the particular circumstances of the case, the time limit for foreclosure did not, in practice, prevent the applicant from acting earlier since he acknowledged that he had been notified that he was the biological father of the child from the end of June 2009 (paragraph 15 above) and that he then had a time limit of more than three years to take action to assert his interests, the five-year time limit expiring on 25 December 2012 (see a contrario, Doktorov, supra, § 29, concerning a short period of one year which expired before the applicant learned the facts justifying his refusal of paternity). The Court thus notes that the complainants did not report, either before or before the domestic courts, any reason which would have prevented them from acting sooner, when N. n. was

then only one year old and six months old, thus allowing a stable social situation in which they could not now challenge the reality of the situation. e. 51. The Court further observes that the applicant's action was declared inadmissible, on the ground that the latter had taken a long time to put in case N., and more specifically his legal representative with regard to a still minor child. Indeed, the applicant did not perform this formality until on 28 February 2013, three months after the initial referral of the court on 14 November 2012. The Court notes that he had at that time 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 to the domestic courts and the Court of Justice any evidence that the complainant, represented before the court of first instance by a lawyer, could ignore the existence of this constant rule in domestic law, since it was applicable both before and after the reform of the law of filiation (paragraphs 18 and 2). 7 above). In these circumstances, the applicants' argument that the paternity action was rejected because of a rigid and formalistic application of procedural rules does not appear to be well founded.The Court also notes, together with the Court of Appeal, that the applicant did not act in a paternity dispute until the applicant applied in parallel for the establishment of the residence of N., alternately with his mother and 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 their true genetic identity, it observes that the complainant, who argues 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 for it to be attracted in a forced manner, thus allowing in time a conflictual and increasingly problematic situation to persist for the child (R.L. et al. v. Denmark, No. 52629/11, § 48, 7 March 2017). The Court also notes that the Court of Appeal, still under review (paragraph 14 above) and therefore a stable social reality for at least five years (paragraphs 18 and 20 above). The Court found that this possession was peaceful, public and unequivocal and that the mere fact that the legal father had known at one time or another that there was a doubt about his paternity could not alone call into question the fact that he had always behaved like a father for N. The Court observed that the applicants did not allege that this state of possession would have been acquired by fraud, coercion, pressure or violence (paragraph 20 above). Accordingly, the Court did not see any reason to depart from the findings of the domestic courts which did not appear arbitrary or unreasonable. 54. Furthermore, the court noted that the Court of Appeal had based its refusal to examine the applicant's application for a paternity challenge not only on the grounds that the child already had an established filiation link, but also on the basis of the best interests of the latter, who was then only seven years old and was taken into account in a judgment of the Court. The Court notes that N., represented in the proceedings by an ad hoc administrator who has spoken twice with him, has stated, through the latter, thatThe Court therefore held that the Court of Appeal, under the control of the Court (paragraph 17 above), could have held that it was not in the best interests of the child to be confronted with the question of paternity in view of his or her young age (Fröhlich, supra, § 64, concerning the case of a six-year-old child), preferring at that stage to keep the child in the family environment to which he or she had been accustomed since the separation of his/her legal father and mother (paragraph 14 above). The Court, which did not have the task of substituting for the internal authorities, which benefited from direct relations with all concerned (A.L. v. Poland, supra. § 66), therefore saw no reason to distance itself from these conclusions, since the applicants had not submitted to that court any evidence, before or before the domestic courts, before the Court, or before 55. Furthermore, the Court finds that the judicial decisions have not resulted in practice, as pointed out by the Government, in depriving the applicant of any connection with N., since as of 26 July 2013, the domestic courts have progressively established an extended right of access and accommodation and then an alternate residence, allowing him to maintain a sustained relationship with the child. 56. It follows from all these factors that the domestic court, in the particular circumstances of the case, has known, while taking into account the legitimate purpose pursued by the legislator (paragraph 24 above), to strike a fair balance between the various interests present, without prejudice to the very substance of the right to privacy and family life guaranteed by article 8 of the Convention, being subject to the rules of calculation of the five-year period as applied. 57. Consequently, there has been no violation of this right. Article 8 of the Convention. BY THESE REASONS, THE COURT 1.Decides unanimously to attach applications; 2.Declares unanimously admissible applications; 3.Says, by six

votes to one, that there has been no violation of article 8 of this Convention.JUDGMENT P.C. and M.N. v. FRANCE 16Made in French, and 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 President The present judgment is joined, in accordance with Articles 45 §2 of the Convention and 74 § 2 of the Regulations, by a separate opinion of Judge Stéphanie Mourou-Vikström. G.R. M.K.JUDGMENT C.P. and M.N. v. FRANCE – SEPARATE OPINION 17DIRECTIVE OPINION OF MOUROU-VIKSTRÖM J. I did not agree with the majority of the chamber that concluded a non-violation of article 8 of the Convention in this case concerning the procedural requirements for questioning of the child and mother in a paternity challenge action. The reasons that lead me to believe that an infringement of the applicant's private and family life must be established are as follows: The provisions of article 333, paragraph 2, of the Civil Code state that the period for bringing an action for paternity challenge is five years. The child was born on December 25, 2007, the period expired on December 25 2012. The applicant, as a presumed biological father, formalized an assignment for the purpose of cancelling the recognition of paternity of the legal father, on November 14, 2012, therefore within the legal period. It appears, on the other hand, that the child was attracted in the case of February 28, 2013 and that of February 28 and that it was attracted to the court. However, it should be considered that not only can they be considered to be accessories to the main action in paternity dispute and therefore that some flexibility can be allowed regarding their regularization, but also that the legal basis is 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 on 30 June 2006, whose accessibility to the case- law of the Court is questionable. Finally, while the domestic courts opposed the applicant's foreclosure of his action by judgment of first instance on 21 October 2014, confirmed on appeal on 22 September 2015 and in cassation on 1 February 2017, on the grounds that the cases should have been brought before 25 December 2012, how to explain why the Court of Justice's decision of 4 March 2013. ue 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 24 December 2012 can only be understood as a validation by the domestic courts of a regularization that occurred after the date of forculation which was therefore intended to apply only to the main action.ARREST C.P. and M.N. v. FRANCE – SEPARATE OPINION 18Finally, the Court of Cassation has replaced the grounds for the inadmissibility of the action in the grounds of its judgment by referring to Article 2241 of the Civil Code, which deals with the causes of the interruption of the period of forculation but which is not the textual legal support requiring the questioning of the child and the mother in the context of the paternity challenge action. Furthermore, the well-established and consistent character of the case law imposing the questioning, within the strict five-year period, of the question of paternity, is subject to discussion, with a single case being cited in the judgment of the Board (Civ. 1st, 6 Nov. 2013, para. 12-19.269). In such a sensitive matter and subject to the intimate nature of the recognition of paternity it is necessary to recall that the Convention does not aim more theoretically, in any other field than to guarantee, that the rights of the Convention do not exceed, The procedural requirement that the legal basis of which cannot be considered established, accessible and foreseeable, and the end of the final non-receiving of the applicant, are likely to result in a violation of article 8 of the Convention.JUDGMENT C.P. and M.N. v. FRANCE 19ANNEX List of Petitions No. Request No.Name of Case Introduce the Representative by 1. 56513/17 P.C. c. France 01/08/2017 Patrice SPINOSI 2. 56515/17 M. N. v! France 01-08/2017 Patrice SPINOSI