



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF AYOUB AND OTHERS v. FRANCE

*(Applications nos. 77400/14 and 2 others –
see appended list)*

JUDGMENT

Art 11 read in light of Art 10 • Freedom of association • Dissolution of paramilitary-type far-right association following violence and breaches of public order by members • Meticulous review of legal characterisation of facts • Wider margin of appreciation in cases of incitement to violence • Dissolution necessary to prevent breaches of public order as effectively as possible

Art 17 + 11 • Prohibition of abuse of rights • Dissolution of far-right associations engaging in racist and antisemitic paramilitary indoctrination

STRASBOURG

8 October 2020

FINAL

08/01/2021

This judgment became final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Ayoub and Others v. France,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Síofra O’Leary, *President*,
Gabriele Kucsko-Stadlmayer,
Ganna Yudkivska,
Mārtiņš Mits,
Lətif Hüseyinov,
Lado Chanturia, *judges*,
Jean-Marie Delarue, *ad hoc judge*,

and Victor Soloveytschik, *Section Registrar*,

Having regard to:

the applications (nos. 77400/14, 34532/15 and 34550/15) against the French Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three French nationals and two French associations, namely, Mr Serge Ayoub, Mr Yvan Benedetti together with L’Oeuvre Française (“French Endeavour”), and Mr Alexandre Gabriac together with the Jeunesses nationalistes (“Nationalist Youth”) (“the individual applicants and the applicant associations”), on the various dates indicated in the appended table;

the parties’ observations;

the decision to give notice to the French Government (“the Government”) of the complaints concerning Articles 10 and 11 of the Convention and to declare inadmissible the remainder of the applications in accordance with Article 54 § 3 of the Rules of Court;

Considering that Mr Guyomar, the judge elected in respect of France, was unable to sit in the case (Rule 28), the President of the Chamber decided to appoint Mr Jean-Marie Delarue to sit as an *ad hoc* judge (Rule 29 § 1 (b));

Having deliberated in private on 8 September 2020,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The applications concerned, from the standpoint of Articles 10 and 11 of the Convention, the administrative dissolution, by presidential decree, of a *de facto* group and of two associations that were politically on the far right.

THE FACTS

2. The applicant Mr Ayoub was born in 1964 and lives in Soissons. Prior to their dissolution, he was the leader of the Troisième Voie (“Third Way”) association and of its security squad, the Jeunesses nationalistes révolutionnaires (“Revolutionary Nationalist Youth” – hereinafter “the

JNR”). The applicant Mr Benedetti was born in 1965 and lives in Paris. The applicant Mr Gabriac was born in 1990 and lives in Meylan. The applicant associations were created in 1968 and 1991 respectively. Mr Benedetti and Mr Gabriac were their respective chairmen prior to their dissolution.

3. The French Government were represented by their Agent, Mr F. Alabrune, Director of Legal Affairs at the Ministry of European and Foreign Affairs.

I. BACKGROUND TO THE CASE

4. The association of which the applicant Serge Ayoub was chair, Troisième Voie (application no. 77400/14), and the applicant associations L’Oeuvre Française and Jeunesses nationalistes (applications nos. 34532/15 and 34550/15) were dissolved under Article L. 212-1 of the Domestic Security Code (*Code de la sécurité intérieure* – hereinafter “the DSC”) derived from the provisions of the Law of 10 January 1936 on combat groups and private militias (see paragraph 43 below). The associations were dissolved in July 2013 following the death on 5 June 2013 of C.M., an eighteen-year-old student at Sciences Po (Institute of Political Studies) and moved in so-called anti-fascist circles, who had died in an altercation with skinhead supporters and/or members of Troisième Voie and its security squad, the JNR. The actions brought by the individual applicants and the applicant associations to have the dissolution orders set aside by the *Conseil d’État*, which had jurisdiction at first and last instance, are detailed below.

5. In June and September 2013 several individuals were placed under formal investigation for manslaughter by wounding. The investigation established that they had fled after the altercation and had met up again at Le Local (see paragraphs 13 and 17 below), the bar run by the applicant Mr Ayoub, with whom they were in contact by telephone just before and after the fight, and throughout that night.

6. On 14 September 2018 the Paris Assize Court sentenced two former members or supporters of the Troisième Voie association to eleven and seven years’ imprisonment respectively for the manslaughter of C.M. by wounding, using a weapon and as part of a group. At the time of the most recently available information the criminal proceedings were still ongoing before the Assize Court of Appeal.

II. APPLICATION No. 77400/14

7. The applicant, Mr S. Ayoub, was the chair of the Troisième Voie association – which was registered on 3 July 1991 and the stated aim of which was “the promotion of revolutionary nationalist ideology” – and the leader of its security squad, the JNR, a “*de facto* group”.

8. On 6 June 2013, following the death of C.M. (see paragraph 4 above), the then Minister of the Interior stated via several media outlets that a far-right group was behind his murder. On 7 June 2013 the Prime Minister stated before the Senate that he had asked the judicial and law-enforcement authorities “to explore every avenue by which such movements that [were] inspired by fascism and Nazism and [were] undermining the Republic and France might be – democratically and with a basis in law – ‘torn to shreds’, so to speak”. On 8 June 2013 he announced that he had asked the Minister of the Interior to institute proceedings “immediately” for the dissolution of the JNR on the basis of prior evidence, which was “more ample” than merely the altercation in which C.M. had died. On 11 June 2013 he announced that similar proceedings were to be instituted in respect of the association *Troisième Voie*.

9. By letter dated 11 June 2013 the applicant was informed of the Government’s intention to dissolve the association of which he was chair and the JNR under points 2 and 6 of Article L. 212-1 of the DSC (see paragraph 43 below). He was invited to submit observations within ten days.

10. By letter dated 18 June 2013 the applicant informed the Minister of the Interior of the voluntary dissolution of the JNR and the *Troisième Voie* association “as a matter of honour” and forwarded the notice of the dissolution announcement that had been published in the *Affiches parisiennes* legal gazette.

11. By letter dated 2 July 2013 the Minister of the Interior informed the applicant that the Government intended to proceed with the dissolution, arguing that the *Troisième Voie* association had, in fact, continued to operate (website updated until 21 June 2013, events scheduled for 23 and 25 June 2013, updated Facebook network with 182 followers), which prompted the conclusion that there still existed a *de facto* group carrying on the same activities. He considered that the same was true of the JNR, since the announcement of their dissolution did not establish that they were no longer active, given the necessarily informal nature of any *de facto* group and the very recent date of the announcement. The Minister went on to point out that the request made by the association’s secretary that its assets be transferred to the Working Class Heroes association, the chair of which was a former member of the JNR, showed “that the activities of the association and of the group the dissolution of which [the applicant had] announced [would] carry on in other forms”. The Minister informed the applicant that he had eight days to submit any additional observations.

12. In his observations of 5 July 2013 the applicant denied any ongoing activity on the part of the association. He pointed out that its website had indeed been shut down since 21 June 2013, that the press conference of 25 June had been held to announce its dissolution to the media and that the event held on 23 June concerned a different association called *Envie de rêver* (“Desire to dream”). He further pointed out that the association’s official

Facebook page, with 4,000 followers, had been taken down at the end of June and that he was unaware of the creation of another page.

13. In a Decree of 12 July 2013 the French President ordered the dissolution of the JNR and Troisième Voie:

“... Firstly, the *de facto* group Jeunesses Nationalistes Révolutionnaires has a highly hierarchical structure, which is composed of several ranks and modelled in certain respects on a military organisation. At the close of a secret ceremony, candidates take an oath of absolute obedience to the leader and are given a ‘dagger of honour’. The Nazi salute is used among members of the Jeunesses Nationalistes Révolutionnaires. Their leaders recruit men who are ‘resolute, athletic and battle-hardened’, brought on for their physical fitness and their activist credentials. Candidates must spend up to two years as ‘aspirants’ before ‘earning their stripes’. On various occasions, their members march under their banner, in close formation, on the public highway, wearing uniforms displaying the ‘JNR’ insignia, directed by their leader, who is referred to as a ‘general’ and whose uniform bears a distinctive marker in the form of an eagle. Their members are made to undergo physical training, cultivate a military appearance and adhere to the slogan ‘Believe, Fight, Obey’ (*Croire, Combattre, Obéir*), which adorns the cuffs of their uniform.

Secondly, the stated aim of the Troisième Voie association is ‘to promote revolutionary nationalist ideology in France by any means and to coordinate the activities of local federations and groups’. In 2010 the association was revitalised through the creation of the *de facto* group Jeunesses Nationalistes Révolutionnaires, whose aims are identical. Mr Ayoub, the association’s chair, is also the leader of this *de facto* group, which shares premises with Troisième Voie. The Troisième Voie association’s website contains a clearly identified section that disseminates information by and about the Jeunesses Nationalistes Révolutionnaires and acts as a vehicle for their common ideology. Following the ‘stripe-bestowing’ ceremony members of the Jeunesses Nationalistes Révolutionnaires automatically become Troisième Voie activists. The Jeunesses Nationalistes Révolutionnaires accompany and flank Troisième Voie at all of their rallies and demonstrations. Thus, sharing as they do the same leader, premises, website, ideology, meetings and activists, the association and the *de facto* group are closely interconnected and form a single entity. Moreover, in his capacity as leader of the Jeunesses Nationalistes Révolutionnaires, Mr Ayoub acknowledged this close interconnection in a letter dated 18 June 2013.

Lastly, the Envie de Rêver association runs an associative bar called Le Local. The association is managed by two members of Troisième Voie, who act as its chair and secretary respectively. Troisième Voie and Envie de Rêver have registered offices at the same address, namely those premises. Le Local, which is mainly open evenings, is a meeting place for Parisian right-wing extremists, led by Mr Serge Ayoub, who is the leader of Troisième Voie and the founder of the Jeunesses Nationalistes Révolutionnaires. Mr Serge Ayoub personally signed the application for a licence authorising the sale of alcohol on the premises, despite being neither chair nor secretary of the association. He hosts parties there, in particular when ‘bestowing stripes’ on new members of the Jeunesses Nationalistes Révolutionnaires. On Thursdays Le Local hosts talks on political themes that are closely linked to the radical right, as are the speakers who give them. These gatherings are open to supporters. The talks are publicised on the website, Facebook page and Twitter account of the Troisième Voie movement. Since the death of [C.M.] on 5 June 2013 Mr Serge Ayoub’s communication with the press in defence of Troisième Voie and the Jeunesses Nationalistes Révolutionnaires has been conducted exclusively from Le Local. Two members of the Jeunesses Nationalistes Révolutionnaires permanently ‘stand guard’ on those premises, which they regard as

the sanctuary of their group and of Troisième Voie. Therefore, Envie de Rêver's only real activities consist in facilitating the meetings of Troisième Voie and of the Jeunesses Nationalistes Révolutionnaires and thus in acting as an instrument for their propaganda of hatred and discrimination towards persons on account of the fact that they are not French citizens. Not having any other activities, it blends seamlessly into the greater whole formed by those two structures as a material instrument for their illegal activities.

It follows from the foregoing considerations that, taken together, these three closely interconnected organisations form a private militia within the meaning of point 2 of Article L. 212-1 of the Domestic Security Code.

In addition, these three entities propagate an ideology that incites hatred and discrimination against persons on account of the fact that they are not French citizens and of their status as immigrants. This ideology is expressed through the holding of meetings and the posting of messages on Troisième Voie's websites. It relies on the rhetoric of hatred and war, calling for the 'destruction' of their 'enemies'. Furthermore, this ideology spills over into numerous acts of violence implicating the leaders of the three associations. The three entities thus fall, whether through their own activities or taken together, within the scope of point 6 of Article L. 212-1 of that Code. Consequently, their dissolution is necessary on that ground as well.

In any event, the Envie de Rêver association, the only real activities of which consist in facilitating the meetings of Troisième Voie and of the Jeunesses Nationalistes Révolutionnaires, and which blends seamlessly into the greater whole formed by these two structures as a material instrument for their illegal activities, must be dissolved as a consequence of the dissolution of the two others. ...

The purpose of [the voluntary dissolutions] designed to circumvent the dissolution decree contemplated in respect of these two organisations is in fact to enable their members to re-form in pursuit of the same ends contrary to public order, while avoiding committing the offence provided for in the final paragraph of Article L. 212-1 of the [DSC]. In addition, the secretary of the Troisième Voie association sought to transfer the association's assets to the Working Class Heroes association, the chair and secretary of which are former members of the group Jeunesses Nationalistes Révolutionnaires and the Troisième Voie association respectively.

It is therefore appropriate that the initially instituted dissolution proceedings be maintained ...

For all of these reasons inherent in public order, it is appropriate to order the dissolution of the Envie de rêver association and of the *de facto* groups Troisième Voie and Jeunesse Nationalistes Révolutionnaires."

14. On 18 July and 15 October 2013 the applicant applied to the *Conseil d'État* to have the decree set aside and filed additional observations. He argued that the decision had been taken for political reasons and had not been justified on public-policy grounds. He pointed out that the voluntary dissolutions were lawful and ought to interrupt the administrative dissolution, which they rendered superfluous. Relying on Articles 10 and 11 of the Convention, the applicant submitted that the groups' dissolution did not pursue a pressing social need and that their ideology, while potentially offensive or shocking, did not constitute hate speech within the meaning of that term in the Court's case-law. Lastly, he stressed that their dissolution was

in breach of Article L. 212-1 of the DSC and disputed the facts and complaints set forth in the decree.

15. In particular, the applicant criticised the characterisation of the JNR as a private militia. He relied in particular on the absence of a military-style hierarchy beyond what was required for any collective activity; on the fact that the members' obedience was strictly limited to the operational requirements of a security squad; on the fact that they marched with their faces exposed; on the non-military, skinhead-style uniform worn, which was closer to that worn at private security or portering firms; on the members' physical strength, but the absence of training camps or collective training; on the probationary period they had in common with the corporate world and, ultimately, on the fact that the JNR were a security squad similar to that of a political party.

The applicant denied both that the impugned ideology embodied by the JNR and *Troisième Voie* took its inspiration from Nazism and that they engaged in any hateful conduct or speech directed at foreigners. Laying claim to a "revolutionary nationalist" and "solidarist" ideology that was in favour of putting a halt to immigration, he pointed out that this ideology was neither racist nor antisemitic, as he himself was regularly attacked by far-right activists for his republican views. He added that, in his writings, this ideology took the form of "a sort of synthesis of French nationalist thought as embodied by such writers and statesmen as Paul Déroulède, Maurice Barrès and Charles Maurras, the spirit of the Convention and of the French Commune, direct democracy, the economic platform of the *Conseil national de la résistance* (National Council of the Resistance) and socialist self-management". Lastly, the applicant argued that acts of violence attributable to members of the association fell outside the scope of Article L. 212-1 of the DSC.

16. In his written observations before the *Conseil d'État*, the Minister of the Interior pointed out that Mr Ayoub was a former skinhead leader, a proponent of right-wing extremism and that his movement – within which the JNR paramilitary group had been created – was mainly composed of skinheads.

17. The Minister argued that the association of which the applicant was chair was named after an older structure that had been active from 1985 to 1990, which was a revolutionary, nationalist, anti-American, anti-communist and anti-Zionist organisation. He pointed out that the association claimed to be "solidarist", a doctrine which advocated solidarity between workers and *bourgeoisie*, as opposed to class struggle, and was hostile to globalism. He clarified that it was headquartered at the association's bar, *Le Local*, a focal point for the radical right. According to the Minister, the three entities – *Troisième Voie* (with twenty-five chapters throughout France and some two hundred and fifty to three hundred activists, essentially recruited from skinhead circles), the JNR and *Le Local* – all had, as follows:

(1) An *ideology*, conveyed via the website, which “clearly displayed its nationalistic views and [was] supported by openly neo-Nazi groups, whose ideas it share[ed]”.

(2) A highly hierarchically organised *structure*, the JNR, which “clearly [embodied] the logic of combat in an organisation that promoted the value of obedience” and whose slogan was “Believe, fight and obey”. He produced photographs of the JNR in uniform during rallies on the public highway. In addition to the organisation and functioning of the JNR detailed in the decree, the Minister clarified that they were regularly implicated in acts of violence, namely wilful assault of a racist or homophobic nature, or against the police, and altercations provoked by young, neo-Nazi skinheads. He further pointed out that the applicant justified such acts of violence, citing the following statement published on the Troisième Voie website:

“we will have to confront directly, in the streets, physical attacks from counter-revolutionary militias like [anti-fascist activists], police repression ... we will never forsake our comrades, those who show up for each event ... The head-shaven and the tattooed are a source of pride for our movement.”

(3) *Premises* managed by the Envie de rêver association, which served as a rear base for the JNR, an address for Troisième Voie and a place where its talks were held and its activists would gather.

18. The Minister relied on several notes from the intelligence services to substantiate the association’s activities and those of its chair: talks held on themes linked to the radical right; the holding of a traditional homage to a nationalist who had died accidentally, which had brought together six hundred extremists in 2013; a campaign to stigmatise members of parliament who were in favour of extending the right to vote to aliens from outside the European Union; and the holding of a demonstration on the theme “Many peoples, one enemy: we stand united against Imperialism”. He did so again to substantiate the incidents implicating Troisième Voie: racial violence, arrests for firearm possession, assaults in bars, altercations with far-left activists, assault in a gay bar, fatal assault on C.M.

19. The Minister emphasised that the applicant was clearly using these structures to accomplish the following:

“to take in hand disaffected, extremist youth and gain a foothold in the political and trade-union spheres. It will thus be noted that since May 2010 he has held, in Paris, the traditional commemoration in honour of Joan of Arc, which marks the annual high point of French neo-Nazi circles, bringing together up to 1000 people. Moreover, in the interview in *Rivarol* (2012) [a French far-right weekly], Mr Ayoub admits: ‘For me, Troisième Voie is all of the following things: a manifesto, a doctrine, a website, a news site updated daily, a video production company, Parisian premises, the re-formation of a steadfast security group (the JNR) ...’”

The Minister concluded that the dissolution had been necessary to maintain public order:

“... the dissolution was ordered in a situation of heightened conflict between far-left and far-right activists after a far-left activist had been the victim of a fatal assault, and against the background of debates and clashes surrounding the Marriage Equality Act (*loi sur le mariage pour tous*): in that context of tension, the actions of ... Troisième Voie and the JNR ... were therefore even more likely than in the past to degenerate into serious breaches of public order.”

20. The applicant submitted observations in reply before the *Conseil d’État*. He reiterated that Troisième Voie functioned like a normal political movement and disputed all the evidence submitted by the Minister as grounds for dissolution. He questioned the notes from the intelligence services as being “without merit and biased as to their content”.

21. On 15 July 2014 the Minister of the Interior filed a memorandum for the deliberations of the *Conseil d’État* in which he pointed out that, contrary to the public rapporteur’s submissions, it could be seen from the material in the case file that the very purpose of the Troisième Voie association and the JNR was to propagate an ideology that incited discrimination, hatred and violence. He clarified that although Troisième Voie had ensured that a doctrine punishable under criminal law was not publicly disseminated, it was nonetheless true that it “was the vehicle for an ideology that regularly led its members to commit attacks on foreign nationals or homosexuals, as [was] evident from the deplorably eloquent list of their misdeeds contained in the accompanying documents”.

22. In a judgment delivered on 30 July 2014 the *Conseil d’État* dismissed the application. It considered, first of all, that the decree had not been issued in breach of the fundamental principle of freedom of association since the grounds for dissolution under Article L. 212-1 of the DSC that could, subject to judicial review, give rise to dissolution, had been justified by “the need to protect public order, taking into account the severity of any breaches thereof as might be occasioned by the associations and groups that [fell] within the scope of those provisions”. It pointed out that the Government had thus struck “the requisite balance between respect for freedoms and the protection of public order without which no such freedoms [could] be secured”.

23. The *Conseil d’État* went on to find as follows:

(a) Article L. 212-1 of the DSC sought to ensure public order both by dissolving associations or groups which placed themselves in the situations listed under that Article and by preventing their rebirth. Thus, the voluntary dissolution of the JNR and Troisième Voie did not preclude their being regarded as *de facto* groups, since those entities had not immediately ceased their activities and had sought to circumvent the criminal sanctions provided for in that Article in the event of continuation or re-formation of a dissolved association or group.

(b) The decree’s reliance on the grounds for dissolution under point 6 of Article L. 212-1 of the DSC was unlawful since the evidence before the court did not establish that these *de facto* groups had, by way of their activities and,

in particular, their writings, statements or collective actions, incited hatred, discrimination or violence.

(c) The JNR constituted a private militia within the meaning of point 2 of Article L. 212-1 of the DSC by reason of their hierarchical structure centred around the applicant and their slogan “Believe, fight, obey”, their members’ recruitment on the basis of the ability to use physical force in the event of “clashes” and their staging of rallies, in particular on the public highway, in the form of uniformed, military-style parades.

(d) Taken together, Troisième Voie and the JNR were to be regarded as forming a private militia. They were highly interconnected in terms of their organisation, functioning and activities, and the evidence in the file demonstrated that they had the same leaders and pursued the same aims, with the JNR actively taking part in the events and rallies called for or organised by Troisième Voie.

(e) The decree was not in breach of Articles 10 and 11 of the Convention since the impugned dissolutions, while they restricted the exercise of freedom of expression, were justified by the seriousness of the danger to public order and safety resulting from the activities of the entities in question.

(f) The decree was to be set aside in so far as it ordered the dissolution of the Envie de rêver association, on the grounds that the fact that supporters of Troisième Voie and the JNR met on its premises did not suffice to establish a breach of public order that might warrant such a measure. Nor did the material in the file show that the association had incited discrimination, hatred or violence during the events it had organised.

III. APPLICATION No. 34532/15

24. The individual applicant, Mr Benedetti, was chair of the applicant association, L’Oeuvre française, registered on 7 February 1968, which the Minister of the Interior described as the oldest far-right organisation in France (see paragraph 28 below) and the stated aim of which had been “to bring together French people who wish[ed] for the immediate rehabilitation of all those convicted for defending French Algeria and the dissolution and outlawing of Marxist organisations”. Its chair at that time had been Mr Pierre Sidos, a leading figure in radical far-right circles.

The applicant became the association’s chair in 2012. According to the most recent amendment on file, its stated aim at present was “to help the French people recover a sovereign national State that [was] once again independent *vis-à-vis* foreign affairs and impartial in domestic affairs”.

According to the information provided by the Government, L’Oeuvre française’s activism had fallen into a certain lethargy until the applicant had taken charge, at which point it had recovered an “undeniable dynamism, illustrated in particular by public propaganda with antisemitic and racist connotations and a series of street-level initiatives, some of which aimed to

incite racial antagonism.” The Government also submitted that a proposal to dissolve the association had been examined in 2005 but the evidence collected had not sufficed for the judicial process to be implemented. At the time of the association’s dissolution in 2013 it had dozens of activists.

25. On 28 June 2013 the Minister of the Interior, in the context mentioned in paragraph 8 above, informed the applicant of the Government’s intention to dissolve the applicant association.

26. In a decree issued on 25 July 2013 the French President ordered the dissolution of the applicant association:

“Firstly, the discourse developed by the L’Oeuvre française association divides humanity into a racial hierarchy, at the top of which sits the white race. In its internet publications and at its meetings the association L’Oeuvre française calls for a national rally or revolution in order to restore the sovereignty of France, which is described as having been invaded by immigrants, and goes so far as to assert that ‘only a national revolution can cleanse France of the parasites that are destroying her’. The association propagates the idea that the aim of political Judaism is to destroy the identity of France and alleges that the French people are in danger. The chair of L’Oeuvre française has stated that he is ‘anti-Zionist, antisemitic and anti-Jew’. L’Oeuvre française has facilitated the spread of anti-Zionist and antisemitic ideas through the publication of articles – in *Rivarol* and on its website – by Hervé Lalin, also known as Ryssen, who has been a member of the association for several years and runs its Ile-de-France chapter, and by Fabrice Bourbon, who is also a member of L’Oeuvre française, both of whom have moreover been convicted for inciting discrimination, hatred or violence towards a group of persons on account of their origin or because they belong to a given religion. Individuals notorious for their antisemitism, such as Vincent Reynouard and Hervé Lalin, have given talks at forums or meetings of L’Oeuvre française. Every year, L’Oeuvre française commemorates the Parti nationaliste (‘Nationalist Party’), an openly xenophobic movement dissolved by decree on 13 February 1959. The L’Oeuvre française association thus spreads an ideology that incites hatred and discrimination, within the meaning of point 6 of Article L. 212-1 of the Domestic Security Code, towards groups of persons on account of the fact that they are not French citizens or that they are of Muslim or Jewish faith or origin.

Secondly, L’Oeuvre française commemorated the 60th anniversary of the death of Philippe Pétain, who was convicted on 15 August 1945 of high treason and collusion with the enemy by the High Court of Justice and sentenced to forfeiture of his civic rights. On that occasion, uniformed members of L’Oeuvre française gathered in close formation and under their flag at Philippe Pétain’s grave. L’Oeuvre française’s 2011 summer camp was placed ‘under the high patronage of Marshal Pétain’ and a vigil was held there, during which a talk on ‘the life and works of Marshal Pétain’ was scheduled. L’Oeuvre française’s activists take the Vichy regime as their model and venerate Charles Maurras, who was convicted of collaboration with the enemy. The so-called ‘Première ligne’ (‘First Line’) security squad, which is in charge of security at L’Oeuvre française demonstrations, adopted the francisca as its emblem, in reference to the Vichy regime’s *Révolution nationale*. The association celebrates the 6th of February – a day it describes as the ‘solstice of the nation’ – to commemorate Robert Brasillach, who was sentenced to death on 6 February 1945 for colluding with the enemy and whom the association presented, in a 6 February 2013 post on its website, as having been ‘murdered by order of the traitor De Gaulle’. Vincent Reynouard, who is known for his negationist views, took part in the 2009 ‘Jeune Nation’ (‘Youth Nation’) camp. Through

all the above activities, the association L'Oeuvre française glorifies collaboration with the enemy within the meaning of point 5 of Article L. 212-1 of the [DSC].

Thirdly, L'Oeuvre française runs paramilitary, physical and ideological training camps, bringing together the movement's leaders and activists for the purpose of training 'political soldiers'. Crowd-control training sessions, shooting sessions conducted in special attire, and boxing, self-defence and transmission classes are all held during these camps. As in the army, the most deserving are decorated and each class receives a name selected from among the revered figures of the movement's ideology. L'Oeuvre française also holds training camps for activists responsible for its 'première ligne' security squad. Participants practice wielding defence canes and tonfa, receive training in commando course techniques, close formation, VIP-protection and demonstration-flanking, and keep in shape. In the light of these considerations, the association L'Oeuvre française constitutes a private militia or combat group within the meaning of point 2 of Article L. 212-1 of the [DSC].

For reasons inherent in public order, it is appropriate to order the dissolution of the association L'Oeuvre française."

27. On 21 September 2013 the applicant applied to have the decree set aside. He argued that the applicant association did not fall within the scope of points 2, 5 and 6 of Article L. 212-1 of the DSC, be it in the aims it pursued or the methods it employed, and that its dissolution was in breach of Articles 9, 10 and 11 of the Convention. In particular, he rejected the accusation of defending Philippe Pétain's policy of collaboration, which he distinguished from the Vichy regime's economic and social policy and its slogan: "*Travail, famille, patrie*" ("Work, Family, Fatherland"). He added that the dissolution constituted an abuse of process and that the facts had been artificially cherry-picked in the interests of what was, in reality, a political decision to punish the applicant association's members for taking part in the protests against the so-called "marriage for all" act.

28. In his written observations before the *Conseil d'État*, the Minister pointed out that L'Oeuvre française was the oldest far-right group [in France] and that it honoured figures of the collaboration and Nazism, took the Vichy regime as its model and revered well-known individuals who had collaborated with Nazi Germany or with the Franco regime. Relying on supporting documents, he insisted on the association's core political project, namely the rehabilitation of Mr Pétain's collaborationist regime – a "recurring issue" which led the association to call for "the establishment of a second Révolution nationale, with completely explicit and unabashed reference to Philippe Pétain's national revolution". The Minister pointed out that this doctrinal postulate was part and parcel of an ideology characterised by a tradition of antisemitism that was all but openly embraced and by the veneration of well-known collaborators. As to Mr Benedetti, the Minister pointed out that he himself had declared himself to be "anti-Zionist, antisemitic and anti-Jew", for which he had been excluded from the Front national party in 2011.

29. In addition, the Minister described the ideology promoted by the association – which incited hatred and discrimination towards a group of persons on account of their origin or because they belonged to a given ethnic group, nation or race – and the media through which it was conveyed (website, references to articles published in *Rivarol* by authors convicted of inciting discrimination and racial hatred, one of whom was a leading Holocaust-denier).

30. He added that this ideology also spilled over into highly publicised shock actions, Mr Benedetti and his association’s activists often being mentioned in minor news columns in connection with acts of violence. Among the most emblematic of these, he pointed to their participation in the fatal assault of B.B., a Moroccan individual who had been pushed into the Seine and had drowned. The Minister also cited thirteen acts of violence perpetrated between 2011 and 2013 during racist demonstrations and the demonstrations against marriage equality.

As to the first of these, he referred in particular to the so-called “revolt of the born-and-bred” (*révolte des souchiens*, i.e. born-and-bred French – *Français de souche*), a demonstration which had been held despite its having been prohibited and had resulted in the arrest of fifty-eight activists, including the applicant, for firearm possession, assault and incitement to rioting; a prohibited “Masters in our own house” (*Maîtres chez nous*) demonstration, during which the Government and “the police of that kippa-coiffed minister, Manuel Valls” had been taken to task, and which had ended with the applicant’s being taken into police custody for taking part in a rally and for resistance to a public officer (*rébellion*); and to a “kick them out” (*foutons-les dehors*) protest against the building of a mosque.

As to the second set of demonstrations, the Minister listed a number of acts of violence committed during protests against marriage equality organised by the Civitas association (a fundamentalist Catholic movement, which had since become a political party) – such as the attack on Femen activists that had led to the arrest of seven activists for wounding as part of a group – and some of the slogans chanted on that occasion: “Blue, white, red, France for the French!”, “Israel the murderer; US the accomplice!”.

The Minister concluded from the foregoing considerations that the ideology thus conveyed relied on “the rhetoric of hatred and war, calling for the destruction of [the group’s] enemies, who [were] identified as those not forming part of the French nation”.

31. Lastly, relying on supporting documents and photographs, the Minister added that the association constituted a private militia and described the annual camps organised by Jeune Nation, a movement of which the applicant had been chair since 2009. These camps involved paramilitary-style training, where one could observe the raising of flags, the pinning of medals and activists – some of them very young – in close formation, sporting uniforms (beret, blue shirt in reference to the Francist movement – a

collaborationist party whose members were nicknamed “the Blueshirts” –, black trousers, combat boots, bomber jackets), together with training in the use of weapons and combat techniques. A special group called the Hoplites (in reference to infantry soldiers in ancient Greece) had been created in the camps for young children aged four to fourteen.

32. The applicant lodged observations in reply before the *Conseil d’État*. He submitted that the Minister was conflating different things and decried the accusations of hate, arguing in particular that political sovereignty was a political concept and that Zionism was a political position condemned by the United Nations (UN) as a form of racism. He also either denied or nuanced the acts of violence described by the Minister and his and the applicant association’s links to figures on the far right.

33. In a judgment delivered on 30 December 2014 the *Conseil d’État* rejected the application. It found that the Government had rightly considered that there was reason to regard L’Oeuvre française as seeking to glorify collaboration with the enemy and that the evidence they had produced had established the existence of acts listed under point 5 of Article L. 212-1 of the DSC, the applicant having confined himself to challenging their seriousness. It clarified that, although certain events had not been directly organised by the applicant association, they had nevertheless been so at its instigation and had enabled it to propagate its own ideology.

The *Conseil d’État* further found that the material contained in the decree as to the ground for dissolution under point 6 of Article L. 212-1 was “clear and concordant”:

“... although the applicants argued that neither the constitution of the L’Oeuvre française association nor the course it had set for itself in a 2000 ‘Charter’ contained ideas or theories that sought to justify or incite discrimination, hatred or violence within the meaning of point 6 of Article L. 212-1, the evidence before the court shows that press articles by, or interviews with, leading members of the association, or former leaders whose influence on its functioning remained strong, together with statements by the association published on its website, contained, either directly or indirectly, in particular through references to the authors of racist or antisemitic theories or publications, material which incited discrimination, hatred or violence, or which justified such discrimination, hatred or violence, within the meaning of point 6 of Article L. 212-1. While the decree takes into consideration certain events which were not officially organised by the association, the evidence before the court nevertheless shows that, regard being had to the close interconnection between this association and the organisers of those events, the activities conducted there were attributable to the association itself. Even assuming [the applicant] did not himself make the antisemitic remarks attributed to him by the decree, and although the material in the file does not establish that the articles published by Mr B and Mr D in the *Rivarol* weekly ... are attributable to the L’Oeuvre française association, those considerations do not suffice to negate the clear and concordant nature of the material adduced in the decree.”

The *Conseil d’État* upheld the finding that the applicant association could be regarded as a private militia within the meaning of point 2 of Article L. 212-1:

“... it can be seen from the evidence before the court that, during these camps, participants wear the emblem of the L’Oeuvre française association and that the ‘Jeune C...’ publication, which organises these camps, is an offshoot of that association. In addition, although the applicants submit that the association has no more than a security squad, it can also be seen from the evidence before the court that the squad’s organisation, in any event, shows such discipline and capacity for the use of force that, in the light of the training exercises conducted during the training camps, the association can be regarded as a private militia...”

Lastly, it pointed out that the dissolution was justified by the seriousness of the danger to public order and safety and that, accordingly, the decree was not in breach of Articles 10 and 11 of the Convention.

IV. APPLICATION No. 34550/15

34. The applicant, Mr Gabriac, was chair of the applicant association, Jeunesses nationalistes (“Nationalist Youth”), registered on 19 October 2011, the stated aim of which was to “promote French nationalism, defend its values and principles and develop mutual aid among members of the national community”.

According to the Government, the association was created on the occasion of the 14th Forum of the Nation organised in Lyon by the L’Oeuvre française association, of which it was the youth branch. Its slogan was “action with no concessions” and its emblem was a fascist eagle. At the time of its dissolution, it had one hundred and fifty active members, grouped into fifteen chapters.

35. On 24 June 2013 the Minister of the Interior, in the context mentioned in paragraph 8 above, informed the applicant of the Government’s intention to dissolve the applicant association.

36. In a decree issued on 25 July 2013, worded as follows, the French President ordered the dissolution of the applicant association:

“... First, the stated aim of the Jeunesses nationalistes association is to ‘promote French nationalism, defend its values and principles and develop mutual aid among members of the national community’. The ideology conveyed targets persons presented as a ‘majority-Muslim immigrant population ... a symbol of the outright colonisation of which the born-and-bred French are the victims’. Those same persons are also referred to as ‘ethnic gangs’ and are accused of being responsible for ‘constant attacks’, the desecration of churches and ‘the assassination of France and [of its] people’. The association also seeks to combat ‘interbreeding as a model of society’ and the ‘Americano-Zionist axis’. The members of the Jeunesses nationalistes call themselves ‘born-and-breds’ (*souchiens*) in reference to a ‘European stock’ (*souche européenne*). The Jeunesses nationalistes association spreads its own ideology by way of articles and statements regularly published on its website. By carrying out ‘shock actions’, it seeks the greatest possible media exposure in order to spread its ideas on a massive scale, as was the case, for example, during the descent on the Beauvais Mosque construction site on 6 October 2012 under the slogan ‘kick them out’. It organises numerous rallies, demonstrations, commemorations and trips, both within France and abroad. It also participates in organising and running a ‘Jeune Nation boot camp’ dedicated to doctrinal and athletic training for its younger members. Moreover, the ideology developed by the Jeunesses nationalistes spills over into various acts of intimidation, vandalism and

violence involving members of the association. The Jeunesses nationalistes association spreads an ideology that incites hatred, discrimination and violence towards persons or groups of persons because they belong, or do not belong, to a given ethnic group, nation or race within the meaning of point 6 Article L. 212-1 of the Domestic Security Code.

Secondly, the Jeunesses nationalistes association takes part in commemorations of the death of militia fighters and members of the Waffen SS killed in 1944 and 1945. A delegation of the Jeunesses nationalistes regularly attends the annual homage to Benito Mussolini held in Predappio, Italy. [The applicant] took part in the celebration in honour of the sixtieth anniversary of the death of Philippe Pétain, who was convicted on 15 August 1945 of high treason and collusion with the enemy by the High Court of Justice and sentenced to forfeiture of his civic rights. [The applicant], who is chair of the Jeunesses nationalistes association, was pictured in the national press on 25 March 2011 giving the Nazi salute in front of a Nazi flag. Mr [D.S.], a member of the Jeunesses nationalistes, was also photographed making a Nazi salute and dressed in a uniform inspired by that worn by the SS. Ms [L.L.], a senior member of the Jeunesses nationalistes, publishes articles on an internet site linked to by the Jeunesses nationalistes website inviting nationalist activists and supporters to correspond with imprisoned revisionists and Holocaust-deniers and to show their support by turning up to greet them in person upon their release. She volunteers practical information and tips to this end, such as avoiding the words ‘Shoah’ or ‘Holocaust’ to prevent the letters from being intercepted. Through all the actions detailed above, the Jeunesses nationalistes association glorifies collaboration with the enemy within the meaning of point 5 of Article L. 212-1 of the Domestic Security Code.

For reasons inherent in public order, it is appropriate to order the dissolution of the Jeunesses nationalistes association ...”

37. The applicants lodged an urgent application to stay the execution of the dissolution order and applied to have it set aside. In their written observations on the merits, the applicants disputed all the complaints against them, alleging guilt by association and manifest errors of assessment. In each case, they argued either that they were unaware of the impugned acts, or that those acts had not resulted in criminal convictions. Lastly, they submitted that the dissolution order was a political decision and was in breach of Articles 9, 10 and 11 of the Convention.

38. In a decision of 25 October 2013 the urgent applications judge at the *Conseil d’État* found that there was no serious doubt as to the lawfulness of the decree.

39. In his written observations before the *Conseil d’État*, the Minister emphasised that when the applicant association had been created, its chair, the applicant, had stated in *Rivarol* that the Jeunesses nationalistes’ self-assigned mission was to “organise and train combative youth, mount shock actions and other operations that [could] not be disclosed in advance, discretion being the key to success”.

The Minister pointed out that the facts set out in the decree as to the rehabilitation of Pétain’s collaborationist regime were firmly established and added that the applicant association itself organised commemorative or propagandistic events which were regularly attended by the applicant. As in the case of L’Œuvre française, the Minister emphasised the applicants’

political project, namely “the rehabilitation of Philippe Pétain’s collaborationist regime”.

The Minister then shared “particularly abject” statements and messages published on the association’s website or in the press: “the Jeunesses nationalistes [claim to be at] ‘the forefront of the fight against inverts (homosexuals) and their supporters’ [and launch rallying cries against the law on] ‘sodomite copulation’; their slogan is ‘kick them out’; ‘we wish to assert that the natural-born French can only be descended from a shared European stock, spiritual tradition, and intellectual culture’; ‘the most zealous promoters and partisans of homosexuality or pornography of every variety are Jews’.

Lastly, the Minister pointed to the actions undertaken by Jeunesses nationalistes activists which had received media coverage and had incited hatred and discrimination against a “Muslim-majority immigrant population” and homosexuals. In addition to the acts previously mentioned in the case of L’Oeuvre française in the context of the demonstrations against marriage equality organised by Civitas (see paragraph 30 above), during which the Jeunesses nationalistes had brandished the Celtic cross, the Minister referred to a number of acts of violence committed against homosexuals.

40. The applicant lodged observations in reply before the *Conseil d’État*, arguing, in particular, that defending the “born-and-bred French” and criticising the Islamisation of France were not criminal offences. He took issue with the enumeration of acts of violence or incitements to hatred that the Minister had set out in his observations.

41. In a judgment delivered on 30 December 2014 the *Conseil d’État* rejected the application:

“... Although the applicants point out that neither the constitution nor the charter of the Jeunesses nationalistes association contain ideas or theories justifying or inciting discrimination, hatred or violence within the meaning of point 6 of Article L. 212-1 of the Domestic Security Code, it can be seen from the very terms of those provisions that it was open to the decree to take into consideration the association’s actual activities, irrespective of its stated aims or the general course it had set for itself. While the ‘JN’ association’s participation, as such, in organising and running ‘boot camps’ is not established by the evidence before the court, it can nevertheless be seen from several statements published on the association’s website, from those made by [the applicant] in his capacity as chair, and from actions in which he and members of the association took part that there is clear and concordant evidence to substantiate the alleged facts for the purposes of point 6 of Article L. 212-1. The applicants’ unsubstantiated denial of the significance of those facts and their argument that the acts committed did not result in criminal convictions or prosecutions cannot be regarded as sufficient to negate their existence or their proper legal characterisation.

Secondly, the evidence before the court does not show that the ‘JN’ association – through its activities or those of its members which were, having regard to the date or circumstances, attributable to it, and in particular the association’s writings, statements or collective actions – glorified collaboration with the enemy within the meaning of point 5 of Article L. 212-1 of the Domestic Security Code. It can nevertheless be seen from the investigation that the Government would have taken the same decision if it

had relied solely on the ground of incitement of hatred, violence or discrimination within the meaning of point 6 of Article L. 212-1 in ordering the dissolution of this association...

... While the impugned dissolution constitutes a restriction of the exercise of freedom of expression and association, it is justified by the seriousness of the danger to public order and safety resulting from the activities of the association in question...”

RELEVANT DOMESTIC LEGAL FRAMEWORK AND PRACTICE

I. FREEDOM OF ASSOCIATION AND THE DISSOLUTION OF ASSOCIATIONS

42. Concerning the relevant provisions governing freedom of association and the dissolution of associations, the Court refers to the section on domestic law in the *Les Authentiks and Supras Auteuil 91 v. France* judgment (nos. 4696/11 and 4703/11, §§ 27-29, 27 October 2016). The Court would point out that freedom of expression is governed by the Associations Act (Law of 1 July 1901), which has constitutional status (Constitutional Council, 16 July 1971, no. 71-44 DC). Sections 3 and 7 of that Act provide for the dissolution of associations, by the ordinary courts, where the stated aims of those associations are unlawful, contrary to law and morality or undermine territorial integrity and the republican form of government. In parallel with compulsory dissolution as ordered by the ordinary courts, the administrative courts have the power to dissolve associations in three cases (*ibid.*, § 29), including the case in issue in the present applications.

43. This power to dissolve associations derives from the Law of 10 January 1936 on combat groups and private militias, which has been amended on various occasions and is now codified in Article L. 212-1 of the DSC. The law was enacted as part of the fight against anti-republican forces, such as the “Blueshirts” mentioned in paragraph 31 above. The relevant provision reads as follows:

“The Cabinet shall issue a decree dissolving any associations or *de facto* groups

- (1) Which incite armed street protests;
- (2) Or constitute combat groups or private militias by reason of their military structure and organisation;
- (3) Or whose aim is to violate the territorial integrity of the nation or undermine the republican form of government by force;
- (4) Or whose activities serve to undermine measures to restore the republican legal order;
- (5) Or whose aim to bring together individuals convicted of collaboration with the enemy, or to glorify such collaboration;

(6) Or which either incite discrimination, hatred or violence towards a person or group of persons on account of their origin or because they belong to a given ethnic group, nation, race or religion, or spread ideas and theories justifying or encouraging such discrimination, hatred or violence;

(7) Or which act within or from French territory to bring about the commission of terrorist acts in France or abroad.

The perpetuation or re-formation of an association or group dissolved pursuant to the present Article – or the organisation of such perpetuation or re-formation – and the organisation of a combat group shall be punishable in accordance with the Criminal Code, Book IV, Title III, Chapter I, section 4.”

44. Under Article 431-15 of the Criminal Code, the perpetuation or re-formation of an association or group dissolved pursuant to point 2 of Article L. 212-1 of the DSC is punishable by three years’ imprisonment and a fine of 45,000 euros (EUR).

45. In 1936 the *Conseil d’État* laid down criteria to determine what qualified as a “private militia” or “combat group”, taking account of the association’s stated aims, the presence of groups organised according to a hierarchy based on ranks (potentially with uniforms to match) and the enforcement of discipline, and which developed paramilitary strategies, in particular the holding of combat-preparation exercises (*Conseil d’État* (CE), Judicial Assembly, 27 November 1936, nos. 54992, 55207 and 55208, Associations Le mouvement social des Croix de feu, Les Croix de feu et briscards, Les Fils de Croix de feu et volontaires nationaux and the association Parti national Populaire; CE, 8 September 1995, no. 155161, Comité du Kurdistan and Others).

II. REPORT ON COMBATTING SMALL FAR-RIGHT GROUPS IN FRANCE

46. In November 2018 a commission of inquiry was created in the National Assembly to report on the status of small far-right groups in France given “the increase in assaults committed and the growing resonance of their racist, antisemitic, sexist and homophobic ideas within society, together with a troubling capacity for action, in particular through the organisation of summer camps where self-defence classes [were] held that bore comparison to paramilitary training”. The report on combatting small far-right groups in France prepared by that commission and deposited in the National Assembly on 6 June 2019 contained information relevant to the examination of the present applications.

47. The report first clarified the scope of the question: the State was not pursuing a policy against the far right, but it was responsible for preventing any breach of public order and punishing any offences which individuals or groups might commit. It was incumbent on the intelligence services to monitor small far-right groups, not on account of the latter’s political positions, but because they advocated or carried out acts of violence aimed at

destabilising the State, threatening its institutions or undermining its security and that of its citizens. The report thus focused on “extremist” groups (*groupes “ultras”*), namely those which resorted to violence to impose their radical ideas (pp. 48-49).

48. In addition, the report pointed out that these small groups formed a shifting, heterogeneous network. While they had a shared foundation – namely, the glorification of violence; the expression of strong feelings of hatred; rejection of those from migrant backgrounds (with confirmation over the course of the hearings that right-wing extremists adhered to the so-called “great replacement” theory); opposition to the Republic and to its institutions and authorities; violent opposition to left-wing extremist groups (*groupes d’ultragauche*) –, they were deeply divided and were often rivals (pp. 55-59). These groups were responsible for the commission of various offences, including deliberate acts of violence, such as vandalising their opponents’ premises or those of pro-migrant associations; desecrating cemeteries; taking part in demonstrations on the public highway with a view to perpetrating attacks; altercations, in particular with far-left groups; in some cases insulting and resisting law-enforcement officers; and, lastly, acts, assaults and statements of an antisemitic, racist, sexist or homophobic nature.

49. In addition to allocating greater resources to monitor and understand the phenomenon, the report recommended “reinforcing the policy of administrative and judicial constraints”. On the judicial level, a reminder was provided of the various offences under which the individual acts committed by members could be classified, it being clarified that criminal proceedings against them could weaken the groups’ collective dynamics. It was also possible under criminal law to take into consideration the collective nature of the offences committed by members of small groups. The latter could also be dissolved by order of the ordinary courts (see paragraph 42 above), although that option was rarely used, in particular because, “as the Minister of Justice [had] emphasised, ‘it [had] been given a relatively strict interpretation in the case-law in view of the constitutional status of freedom of association’” (pp. 93-99).

According to the report, the policy of administrative constraints – namely, the measures designed to prevent breaches of public order occasioned by the activities of small groups – was to be applied strictly, since the freedom to demonstrate and freedom of assembly enjoyed very strong protections. Concerning the administrative dissolution of associations (see paragraphs 42 and 43 above), the report explained that it was carried out in several stages. First, the intelligence services gathered evidence to determine the legal characterisation to be given to the association’s activities. It then fell to the Ministry of the Interior’s Department of Public Freedoms and Legal Affairs to draw up a draft dissolution order, while ensuring its lawfulness. The association received notice of dissolution as part of adversarial proceedings, in the course of which it could submit its observations. At the end of that

exchange, the dissolution was enacted through the publication of a decree issued by the Cabinet and signed by the French President (p. 107). According to the Minister of the Interior, who had been interviewed during the commission of inquiry's proceedings, dissolution could only be ordered following an investigation and on the basis of solid factual evidence (p. 111).

The report clarified that administrative dissolution was a "useful" procedure that sought "to prevent breaches of public order occasioned by the activities of these small groups" and "genuinely disorganis[ed] the groups" (pp. 106 and 110):

"... As indicated by the DGSI [*Directeur général de la sécurité intérieure* – Director General of National Security], if the traditional organisations of the neo-Nazi, skinhead and identitarian variety have been 'mainly on the decline for 5 or 10 years', this is 'principally because the series of administrative dissolutions that were ordered in 2013 following the murder of [C.M.] dealt a powerful blow to these small groups'. In M.L.'s view, these groups 'have been disorganised and the fact that re-formation is punishable as a criminal offence has led them to exercise great caution'.

This analysis was confirmed by the Minister of the Interior. 'I know that there is some debate', he stated. 'Some considered that these dissolutions failed to achieve anything. What I have seen is that they were genuinely effective: these measures have completely disrupted a system. While that system has been able to re-establish itself in other forms, it has by no means done so on the same scale or as powerfully'."

50. The report further indicated that the dissolution procedure was made more complex by the groups' circumvention strategies, whereby they avoided having acts attributed to them by advising their members not to claim to be part of the group, while subsequently financing their legal defence.

51. As to Mr Benedetti, the applicant in application no. 34532/15, who was interviewed by the commission of inquiry, the report indicated that he had a substantial history of court proceedings. The report also showed that, in his testimony, the applicant had made negationist statements under oath, denying the reality of the Shoah and decrying it as a conspiracy, which had resulted in a referral of those statements to the prosecutor pursuant to Article 40 of the Criminal Code.

RELEVANT INTERNATIONAL LEGAL FRAMEWORK

52. In its *Belkacem v. Belgium* decision (no. 34367/14, 27 June 2017), the Court cited the relevant Council of Europe texts, such as Recommendation no. (97) 20 of the Committee of Ministers on "hate speech" adopted on 30 October 1997 (see also *Perinçek v. Switzerland* [GC], no. 27510/08, §§ 78-79, ECHR 2015). The preamble of that recommendation read as follows:

"...

Recalling that the Vienna Declaration [of 9 October 1993] highlighted grave concern about the present resurgence of racism, xenophobia and antisemitism and the

development of a climate of intolerance, and contained an undertaking to combat all ideologies, policies and practices constituting an incitement to racial hatred, violence and discrimination, as well as any action or language likely to strengthen fears and tensions between groups from different racial, ethnic, national, religious or social backgrounds;

...”

53. In the *Belkacem* decision (cited above), the Court also referred to the work of the Council of Europe’s European Commission against Racism and Intolerance (ECRI). Point 17 of ECRI’s amended General Policy Recommendation no. 7 on national legislation to combat racism and racial discrimination provides that “the law should provide for the possibility of dissolution of organisations which promote racism”. Furthermore, point 9 of its General Policy Recommendation no. 15 on combating hate speech, adopted on 8 December 2015, makes the following recommendation to the governments of member States:

“withdraw all financial and other forms of support by public bodies from political parties and other organisations that use hate speech or fail to sanction its use by their members and provide, while respecting the right to freedom of association, for the possibility of prohibiting or dissolving such organisations regardless of whether they receive any form of support from public bodies where their use of hate speech is intended or can reasonably be expected to incite acts of violence, intimidation, hostility or discrimination against those targeted by it;

...”

54. In its report on France adopted on 8 December 2015 (CRI (2016)1), ECRI noted a substantial rise in intolerance and a worsening of racist behaviour in recent years. It recommended that certain conduct be expressly criminalised: (i) the public expression of an ideology claiming the superiority of or depreciating or denigrating a group of persons; and (ii) the creation or leadership of a group which promotes racism, support for such a group or participation in its activities (§ 10). ECRI noted a fall in the tolerance of diversity since 2009, as the National Consultative Commission for Human Rights had found in its report for 2013 on the combating of racism, antisemitism and xenophobia (published by La documentation française, 12 June 2014), and the prevalence of antisemitic tropes, especially in various segments of French society (Front national supporters, part of the population of Arab origin, and supporters of the Front de gauche). It pointed out that hate speech had led to acts of racist violence, especially by extremist groups. Concerning homophobic/transphobic hate speech, ECRI pointed out that it had come to a head at the time of the passing of the Law of 17 May 2013 legalising same-sex marriage, which had given rise to a large number of cases of hate speech by some participants in the public demonstrations.

THE LAW

I. JOINDER OF THE APPLICATIONS

55. Given the similarity of the applications as to the facts and the legal issues raised, the Court finds it appropriate to examine them jointly (Rule 42 § 1 of the Rules of Court).

II. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

56. The applicants alleged that the measures taken to dissolve the associations that they had chaired constituted unjustified interference with their right to freedom of association and to freedom of expression under Articles 10 and 11 of the Convention.

57. Articles 10 and 11 of the Convention read as follows:

Article 10

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, ... for the protection of the reputation or rights of others ...”

Article 11

“1. Everyone has the right to freedom ... of association with others ...

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, ... or for the protection of the rights and freedoms of others. ...”

58. As a preliminary matter, the Court would point out that, although dissolved, the applicant associations can nevertheless claim to be victims of the alleged violations, within the meaning of Article 34 of the Convention (see, *mutatis mutandis*, *AGVPS-Bacău v. Romania*, no. 19750/03, §§ 38 and 39, 9 November 2010). The individual applicants can also claim victim status (see *Jehovah's Witnesses of Moscow and Others v. Russia*, no. 302/02, § 101, 10 June 2010, and the case-law references cited therein, and *Zehra Foundation and Others v. Turkey*, no. 51595/07, §§ 34 and 38, 10 July 2018).

59. The Court further reiterates that the protection of opinions and the freedom to express them within the meaning of Article 10 of the Convention is one of the objectives of the freedoms of assembly and association enshrined

in Article 11, such that Article 11 must be considered in the light of Article 10 (see *Young, James and Webster v. the United Kingdom*, 13 August 1981, § 57, Series A no. 44; *Parti nationaliste basque – Organisation régionale d’Iparralde v. France*, no. 71251/01, § 33, ECHR 2007-II; and *Vörður Ólafsson v. Iceland*, no. 20161/06, § 46, ECHR 2010). The link between Articles 10 and 11 has recently been freshly highlighted, in particular in cases where the authorities interfered with the right guaranteed by the second of those provisions in reaction to the opinions held or statements made by participants in a demonstration or by members of an association (see *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, § 102, 15 November 2018). In the circumstances of the present case, Article 10 is to be regarded as *lex generalis* in relation to Article 11, the *lex specialis*, so that it is unnecessary to take it into consideration separately (see, *mutatis mutandis*, *Ezelin v. France*, 26 April 1991, § 35, Series A no. 202). Notwithstanding its autonomous role and particular sphere of application, Article 11 must, in the present case, also be considered in the light of Article 10 (see *Young, James and Webster*, cited above, § 57).

A. The parties’ submissions

1. Application no. 77400/14

(a) The Government

60. The Government submitted as their principal argument that the application was inadmissible, not on the basis of Article 17 of the Convention, but as manifestly ill-founded and, in the alternative, that – for the same reasons – there had been no violation of Articles 10 or 11 of the Convention.

61. The Government submitted that the interference complained of had been “prescribed by law”, namely by Article L. 212-1 of the Domestic Security Code (“DSC”). They clarified that the voluntary dissolution of the association Troisième Voie had not rendered that provision unenforceable since, as the *Conseil d’État* had noted, the association’s self-dissolution had not put an end to its activities and had been designed to circumvent the application of criminal sanctions (see paragraph 23 above). The dissolution order had also sought to prevent the association from re-forming in the medium or long term. Thus, through the calculated voluntary dissolution of Troisième Voie and of the Jeunesses nationalistes révolutionnaires (hereinafter “the JNR”) who were interconnected with it, the applicant could not have been unaware that he was liable to expose himself to the application of the provisions of Article L. 212-1 of the DSC.

62. According to the Government, the interference had moreover pursued the legitimate aims of ensuring public safety, preventing disorder and protecting the rights of others, which had been threatened by the violent and

dangerous nature of the actions undertaken by Troisième Voie and the JNR and by the dissemination of an ideology that was incompatible with democratic principles.

63. The fact that the interference had been necessary was demonstrated by the breaches of public order caused by these entities and the threat they represented to public safety.

64. In the light, in particular, of the *Vona v. Hungary* judgment (no. 35943/10, ECHR 2013), and having regard to the description of Troisième Voie’s security squad in the dissolution decree (see paragraph 13 above), the Government emphasised the intimidating nature of the organisations led by the applicant. These were closely interconnected from an institutional and relational point of view, and the potential use of force advocated on Troisième Voie’s website corroborated the threatening and aggressive nature of the JNR.

65. In addition, certain members of the JNR had committed acts of violence, whether on the margins of gatherings, during rallies, or acting alone. In addition to the death of C.M. (see paragraphs 4-6 above), the Government cited the following events, specifying that the list was not exhaustive: in May and October 2009 individuals leaving Le Local had been involved in altercations; on 8 May 2011, following a meeting of the JNR, five of their supporters had assaulted a minor from an immigrant family, and then a police officer; in April 2013 a member of the JNR and three other individuals from radical far-right circles had perpetrated homophobic attacks in a bar.

66. The Government considered that the impugned dissolution had been necessary since the actions of the organisations in question had overstepped the bounds of the protection afforded by the Convention in matters of free expression or assembly. This was what the *Conseil d’État* had found when it had concluded from the description given of the JNR, who were closely interconnected with Troisième Voie, that they constituted a private militia which posed a threat to public order.

67. The Government pointed out that only dissolution could achieve the legitimate aims pursued. Absent any other measures by which those aims might be achieved, they considered that it was the most suitable and appropriate measure and, consequently, that it was proportionate. Moreover, no additional penalty had been imposed on Troisième Voie or its members, who had not been prevented from carrying on their activities in other forms. In particular, the applicant had published a book entitled “The C.M. Affair: From Anecdote to Political Scandal”.

68. Lastly, the Government pointed out that the dissolution decree had been issued in compliance with the adversarial principle and had undergone thorough, rigorous review by the *Conseil d’État*.

(b) The applicant

69. The applicant submitted that the impugned dissolution had been political and founded on a string of lies about the way Troisième Voie and the JNR were organised, based on dubious notes provided by the intelligence services.

70. He considered that the self-dissolution of his association and of its security squad had rendered the subsequent dissolution order superfluous. He submitted that all of the association's activities had ceased on 12 July 2013, when the decree had been published and after its website and Facebook page had been taken down on or around 18 June 2013. The applicant accused the Government of manoeuvring, in breach of Article 11 of the Convention, to bring the assessment of the voluntary dissolution within the purview of the administrative authorities and of the special rules laid down by Article L. 212-1 of the DSC, when, in his view, its dissolution followed directly from the freedom of association secured by the Associations Act of 1 July 1901.

71. The applicant challenged the Government's submission to the effect that the Troisième Voie association had undermined democratic values. He pointed out that it had always claimed to be republican and the heir to the social doctrine of the church, to Léon Bourgeois (the theorist of solidarism) and to the *Conseil national de la Résistance*. Furthermore, the *Conseil d'État* had not found that it had incited hatred, discrimination or violence.

72. The applicant also disputed the "military appearance" of the members of Troisième Voie's security squad. He considered that their outfit was necessary to distinguish them from demonstrators. He disputed their characterisation by the Government as a "private militia", submitting that the hierarchy within the JNR was basic (a single leader, the chair) and pointing to its egalitarian nature (it was also called "the society of equals"). In addition, he submitted that the JNR's military-style, dissuasive appearance was necessary to maintain order. He pointed out that theirs was not a military uniform, since they wore black trousers, bomber jackets and trainers, were unarmed, and brandished flags the emblems of which were the fasces of the Republic and the coat of arms of the French Republic from the Élysée palace.

73. The applicant also pointed out that the JNR had obtained authorisation from the prefecture every year to take part in the "Joan of Arc parade" and considered that the Government could hardly criticise its members for marching in uniform during an official parade. The other rallies (once a year on average) were demonstrations that were systematically authorised and concerned job protection and combatting imperialism and war across the globe. These were not, in the applicant's view, extremist themes, and there had been no incitement to rioting.

74. As to JNR members participating in breaches of public order, the applicant considered that the group could not be held to account for the

actions of its members outside the collective actions for which was responsible.

75. Lastly, the applicant considered that the association of which he was chair had been dissolved “by contagion”, on the sole basis of its interconnection with the JNR. Beyond the fact that the latter group was not a “private militia”, it could not – as a handful of some thirty people scattered throughout France – have “transferred” such a characterisation to an association bringing together hundreds of people. He pointed out that Troisième Voie disseminated “solidarist” political ideas, especially in written form (press, books), without thereby undermining public order. Moreover, all the public demonstrations or rallies it had held had been authorised. The applicant concluded that the dissolution decree had also unjustifiably interfered with freedom of expression, since it had sought to silence views opposed to those of the powers that be.

2. *Applications nos. 34532/15 and 34550/15*

(a) **The Government**

76. The Government submitted as their principal argument that both applications were inadmissible pursuant to Article 17 of the Convention. They submitted that the dissolved associations had provided an institutional framework for the expression of racist, homophobic or antisemitic views that were contrary to the democratic values of the Convention, adding that this fact could not be contested merely by pointing to the associations’ constitutions or programmes in which such ideas were not visible.

77. To substantiate its argument with regard to L’Oeuvre française, the Government cited the following:

(a) Its website, containing several sections on nationalism – defined as a method “that places ... man at the forefront of its concerns ... man in the true sense ... namely, the white man” – and laying claim to certain “teachers”, such as E. Drumont, known for his antisemitism, or R. Brasillach, described as the “poet of fascism”.

(b) Texts or statements with racist or antisemitic connotations reproduced on that site, such as the 2007 interview with the association’s founder, Pierre Sidos, a leading figure of the radical right, in which he referred, in turn, to “the sinister farce of Nuremberg”, to the “struggle against immigration from outside Europe that [was] incompatible with [French] atavism and ... traditions” and to the rejection of “the intrusion into the life of [French] cities of ethno-cultural morals which are alien to [the French] spiritual and moral heritage”, or to publications that propagated antisemitic and racist ideas: “Dinner at the CRIF [*Conseil représentatif des institutions juives de France* – Representative Council of the Jewish Institutions of France], or the Hatred of France” of 22 March 2013, “Stop the Genocide of the French People” of 28 October 2012.

(c) The individual applicant's closing statements at a 2007 forum of the nation mentioning the "forces siding with foreigners" who had "taken over everything" with a platform of "genuine ethnic cleansing" and of "annihilating the white world through repopulation by immigration or mass abortion".

(d) A "scholarly text" published on the website entitled "Thoughts about whiteness by Pierre Sidos".

(e) Publications glorifying Marshal Pétain: the association called for a "Second National Revolution", "which alone [could] restore France's destiny by cleansing her of the parasites that [had been] destroying her with increased efficiency for 60 years" (statement of 15 May 2012); commemorations in homage to Marshal Pétain or to the Vichy regime; the use of an emblem – a Celtic cross – reminiscent of that regime. In a video posted on the website on 1 June 2013 the applicant mentioned the Marshal's principles, which were "the foundation of political action", while clarifying that France was an "ethnically white country".

(f) The specific links between L'Oeuvre française, the publication director of the *Rivarol* journal (which was convicted on several occasions, together with its publication director, for statements and articles inciting to racial discrimination, hatred or violence) and the chair of the Jeunesses Nationalistes association, and their adherence to the revisionist ideas defended by M. Bardèche, who was considered to be one of the founders of Holocaust denial.

78. With regard to the Jeunesses Nationalistes, the Government mentioned the following:

(a) Articles published on the website containing references to the fact "of having to live with foreigners who [had] no respect for [the French people's] land" and to the country's "colonisation" by immigrants, or, on the occasion of the construction of a mosque, a reference to "a Muslim-majority immigrant population that buil[t] gargantuan places of worship in ever greater numbers" on the territory, this being "a symbol of the outright colonisation of which the born-and-bred French [were] now the victims".

(b) Pamphlets used during demonstrations containing the slogans "Kick them out" and "Masters in our own house".

(c) An October 2011 *Rivarol* interview with their chair, the applicant, where he spoke of the French wishing to remain "masters in their own house", of the "natural-born Frenchman [who] could only be descended from European stock" and of the applicant association's having been created for the purpose of "organising and training combative youth [and] carrying out the necessary shock actions to express that enough [was] enough (*ras-le-bol*)"; in that interview, the applicant had stated that "for the nationalist youth, every nationalist [was] a revolutionary in so far as he or she [did] not recognise the legitimacy of the current democratic, globalist order".

(d) The applicant association's expression of hatred towards homosexuals, as witnessed during the demonstrations against marriage equality with the publication of particularly hostile and violent propaganda posters. In that connection, the Government produced a poster from the association's website in May 2013 showing a monkey along with the following caption: "Their marriage for all?! And why not for him, while we're at it!" The material produced also included a newspaper article published in *Le Monde* in January 2013 reporting on the vandalism of several of the Socialist Party's local offices by the posting of Jeunesses nationalistes stickers, which were sold on their website under the designation "anti-sodomite copulation model" and on which the Celtic cross was displayed, along with the following warning: "Hey homo: don't forget you've got a father AND a mother!", "No to homosexual marriage".

(e) The fact that the applicant association and the individual applicant were close to structures that propagated antisemitic and negationist ideologies, such as those of the L'Oeuvre française association.

79. The Government concluded that the applicants had widely and repeatedly disseminated antisemitic and racist statements and that they had sought to deflect Articles 10 and 11 of the Convention from their intended purpose by using the freedoms of expression and association for purposes that were inconsistent with the Convention's fundamental values of justice and peace. They concluded that the applications were inadmissible as being incompatible *ratione materiae* with the provisions of the Convention.

80. Alternatively, the Government took the view that the dissolution of the applicant associations constituted a justified and proportionate interference with the rights guaranteed by Articles 10 and 11 and that those associations' complaints should be dismissed as manifestly ill-founded or for non-violation of those provisions. As indicated in paragraphs 61 and 62 above, they considered that such interference had been prescribed by law and had pursued a legitimate aim. It had moreover been necessary in a democratic society given the breaches of public order caused by the associations' menacing activities. The Government emphasised the ideology promoted by the applicant associations, as described above, taking the opportunity to point out that L'Œuvre française had a security squad named "first line" – a highly hierarchical paramilitary structure consisting of activists in uniforms that gave them a military appearance – which had organised "Jeune Nation nationalist boot camps" since 2009 in order to train "political soldiers". Lastly, the Government argued that nothing short of the applicant associations' dissolution could have achieved the legitimate aims pursued.

(b) The applicants

81. The applicants submitted that the Government were seeking to tar the two applicant associations with the same brush, even though, like the measures taken to dissolve them, they were separate. They denied that they

had any financial or structural ties to *Rivarol*, or any responsibility for the annual organisation of certain rallies.

82. In application no. 34550/15, the applicants pointed out that the Minister of the Interior had confused the Jeunesses nationalistes with other organisations. In application no. 34532/15, the applicants denied any particular link between the L'Oeuvre française association and the ideologically closely aligned figures cited by the Government. They further denied the presence of any weapons during the summer camps organised by Jeune nation (see paragraph 31 above). They considered that the training offered during the camps, the uniforms, the parades in close formation and the flag-salute did not suffice to make out the convening of a combat group. It was a case of Scout-style camping, among nationalists, with talks given and homages paid to the flag.

83. The applicants submitted that the Government had sought to create confusion by submerging the Court in a flood of erroneous information and that the real reason the two associations had been dissolved was that they had taken part in the protest movement against the law on same-sex marriage. It had in fact been a manoeuvre on the part of the Government to deprive that movement of the associative framework through which it made itself heard and to get rid of the political opponents within it. Lastly, the applicants considered that the Government had taken advantage of a tragic but minor news item to attempt to wipe its most resolute political opponents off the political map.

B. The Court's assessment

1. General principles

(a) Pluralist democracy and groups protected by Article 11 of the Convention

84. The Court has repeatedly asserted that political democracy represents without doubt a fundamental feature of the European public order and is the only political model contemplated in the Convention and the only one compatible with it. By virtue of the wording of the second paragraph of Article 11, and likewise of Articles 8, 9 and 10 of the Convention, the only necessity capable of justifying an interference with any of the rights enshrined in those Articles is one that may claim to spring from “democratic society” (see, in particular, *Gorzelik and Others v. Poland* [GC], no. 44158/98, § 89, ECHR 2004-I, and *Zehra Foundation and Others v. Turkey*, no. 51595/07, § 49, 10 July 2018).

85. Among the characteristics of a “democratic society”, the Court attaches particular importance to pluralism, tolerance and broadmindedness (see *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24; and *Zehra Foundation and Others*, cited above, § 50). It reasserts that in the context of Article 11, political parties, but also associations and

foundations formed for various social purposes, are important to the proper functioning of democracy. It is only natural that, where a civil society functions in a healthy manner, the participation of citizens in the democratic process is to a large extent achieved through belonging to associations in which they may integrate with each other and pursue common objectives collectively. Given that the implementation of the principle of pluralism is impossible if an association is unable to express freely its ideas and opinions, the Court has also recognised that the protection of opinions and the freedom of expression within the meaning of Article 10 of the Convention is one of the objectives of the freedom of association (see *Gorzelik and Others*, cited above, §§ 90-92). Article 11 is applicable not only to persons or associations whose views are favourably received or regarded as inoffensive, but also those whose views offend, shock or disturb (see *Redfearn v. the United Kingdom*, no. 47335/06, § 56, 6 November 2012, and *Vona*, cited above, § 63).

(b) The possibility of imposing restrictions and the Court's scrutiny

86. Freedom of association is not absolute, however, and it must be accepted that where an association or foundation, through its activities or the intentions it has declared in its programme, jeopardises the State's institutions or the rights and freedoms of others, Article 11 does not deprive the State of the power to protect those institutions and persons. This follows both from paragraph 2 of Article 11 and from the State's positive obligations under Article 1 of the Convention (see *Gorzelik and Others*, cited above, § 94, and *Zehra Fondation and Others*, cited above, § 52).

87. States have a right to satisfy themselves that an association's aim and activities are in conformity with the rules laid down in legislation (see *Sidiropoulos and Others v. Greece*, 10 July 1998, § 40, *Reports of Judgments and Decisions* 1998-IV, and *Moscow Branch of the Salvation Army v. Russia*, no. 72881/01, § 59, ECHR 2006-XI). However, they must do so in a manner compatible with their obligations under the Convention and subject to the Court's review. Consequently, the exceptions set out in Article 11 of the Convention are to be construed strictly; only convincing and compelling reasons can justify restrictions on freedom of association.

88. The Court has previously had occasion to point out that dissolution is a harsh measure entailing significant consequences and may be taken only in the most serious of cases (see *Association Rhino and Others v. Switzerland*, no. 48848/07, § 62, 11 October 2011; *Vona*, cited above, § 58; and *Les Authentiks and Supras Auteuil 91 v. France*, nos. 4696/11 and 4703/11, § 84, 27 October 2016). Unless an association can reasonably be regarded as a breeding ground for violence or as incarnating a negation of democratic principles, radical measures restricting freedom of association – in the name of protecting democracy – are difficult to reconcile with the spirit of the Convention, which is aimed at guaranteeing the articulation of political views

through all peaceful and lawful means, including associations and gatherings (see *Vona*, cited above, § 63).

89. Any interference must correspond to a “pressing social need” for a given restriction to be imposed in the public interest; thus, the term “necessary” does not have the flexibility of such expressions as “useful” or “desirable”. While the Convention leaves to the national authorities a margin of appreciation in this connection, their assessment is subject to supervision by the Court.

When the Court carries out its scrutiny, its task is not to substitute its own view for that of the national authorities, which are better placed than an international court to decide on measures of implementation, but to review under Article 11 the decisions they delivered in the exercise of their discretion. This does not mean that it has to confine itself to ascertaining whether the State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine whether the reasons adduced by the national authorities to justify it were “relevant and sufficient” to demonstrate a “pressing social need”, and whether it was “proportionate to the legitimate aim pursued”. In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *Gorzelik and Others*, §§ 94-96, and *Les Authentiks and Supras Auteuil* 91, § 73, both cited above).

(c) The application of these principles in cases concerning symbols of intolerance and the dissolution of associations

90. In the *Fáber v. Hungary* case (no. 40721/08, §§ 44 and 56, 24 July 2012), the Court considered that the mere display of a flag with fascist connotations – perceived as provocative by the authorities – in the vicinity of a demonstration against racism and hate did not constitute “a clear threat or present danger of violence” and did not suffice to disturb public order since that act was neither intimidating nor capable of inciting to violence by instilling a deep-seated hatred against identifiable persons (see also, *mutatis mutandis*, *Vajnai v. Hungary*, no. 33629/06, §§ 53 and 56, ECHR 2008, concerning the wearing of a red star during a demonstration).

91. In the *Vona* case (cited above), the Court found that the Hungarian authorities’ dissolution of an association that held paramilitary marches against the Roma had been necessary in a democratic society. The relevant passages of that judgment read as follows:

“57. In the Court’s view, the State is also entitled to take preventive measures to protect democracy *vis-à-vis* such non-party entities if a sufficiently imminent prejudice to the rights of others threatens to undermine the fundamental values on the basis of which a democratic society exists and functions. One such value is the coexistence of

members of society free from racial segregation, without which a democratic society is inconceivable ...

...

66. The Court considers that the demonstration by political protagonists of their ability and willingness to organise a paramilitary force goes beyond the use of peaceful and lawful means of articulating political views. In the light of historical experience – such as that of Hungary in the wake of the era of Arrow Cross power – the reliance of an association on paramilitary demonstrations which express racial division and implicitly call for race-based action must have an intimidating effect on members of a racial minority, especially when they are in their homes and as such constitute a captive audience. In the Court’s view, this exceeds the limits of the scope of protection secured by the Convention in relation to expression (see *Vajnai*, cited above) or assemblies and amounts to intimidation, which is – in the words of the United States Supreme Court’s judgment in *Virginia v. Black* [538 U.S. 343 (2003)] ... – a ‘true threat’ ... In the Court’s view, a paramilitary march goes beyond the mere expression of a disturbing or offensive idea, since the message is accompanied by the physical presence of a threatening group of organised activists ...

...

69. The Court considers that the intimidating character of the rallies in question is an overriding consideration, despite the fact that the actual assemblies were not banned by the authorities and no violent act or crime occurred. What matters is that the repeated organisation of the rallies ... was capable of intimidating others and therefore of affecting their rights, especially in view of the location of the parades. With regard to the dissolution of the Association, it is immaterial that the demonstrations, taken in isolation, were not illegal, and the Court is not called upon in the present case to determine to what extent the demonstrations amounted to exercise of the Convention right of assembly. It may be only in the light of the actual conduct of such demonstrations that the real nature and goals of an association become apparent. In the Court’s view, organising a series of rallies allegedly in order to keep ‘Gypsy criminality’ at bay by means of paramilitary parading can be regarded as implementing a policy of racial segregation. In fact, the intimidating marches can be seen as constituting the first steps in the realisation of a certain vision of ‘law and order’ which is racist in essence ...

...

71. The Court is aware that the disbanding of the Movement and the Association represented quite a drastic measure. However, it is satisfied that the authorities nevertheless chose the least intrusive – indeed, the only reasonable – course of action to deal with the issue. Moreover, it is to be noted that the domestic authorities had previously drawn the attention of the Association to the unlawful nature of the Movement’s activities, a move which resulted only in formal compliance ... , to the extent that further rallies took place during the ongoing proceedings ... In the Court’s view, the threat to the rights of others represented by the Movement’s rallies could be effectively eliminated only by removing the organisational back-up of the Movement provided by the Association. Had the authorities acquiesced in the continued activities of the Movement and the Association by upholding their legal existence in the privileged form of an entity under the law on associations, the general public might have perceived this as legitimisation by the State of this menace. This would have enabled the Association, benefiting from the prerogatives of a legally registered entity, to continue to support the Movement, and the State would thereby have indirectly facilitated the orchestration of its campaign of rallies ...”

(d) The prohibition of the abuse of rights under Article 17 of the Convention

92. The Court has repeatedly held that “the purpose of Article 17, in so far as it refers to groups or to individuals, is to make it impossible for them to derive from the Convention a right to engage in any activity or perform any act aimed at destroying any of the rights and freedoms set forth in the Convention; ... therefore, no person may be able to take advantage of the provisions of the Convention to perform acts aimed at destroying the aforesaid rights and freedoms ...” (see *Lawless v. Ireland* (no. 3), 1 July 1961, p. 19, § 7, Series A no. 3, and, more recently, *Roj TV A/S v. Denmark* (dec.), no. 24683/14, § 30, 17 April 2018). In particular, the general purpose of Article 17 is to prevent totalitarian groups from exploiting in their own interests the principles enunciated by the Convention (see *W.P. and Others v. Poland* (dec.), no. 42264/98, ECHR 2004-VII).

93. The Court has pointed out that in order to achieve that purpose, it is not necessary to take away every one of the rights and freedoms guaranteed in the Convention from persons found to be engaged in activities aimed at the destruction of any of those rights and freedoms. Article 17 covers essentially those rights which, if invoked, would facilitate the attempt to derive therefrom a right to engage in activities aimed at the destruction of “any of the rights and freedoms set forth in the Convention”, which include the freedoms of expression and association guaranteed by Articles 10 and 11 of the Convention (see *Lawless* (no. 3), cited above, p. 18, § 6; *Kasymakhunov and Saybatalov v. Russia*, nos. 26261/05 and 26377/06, § 103, 14 March 2013; and *Roj TV A/S*, decision cited above, § 30, and the authorities cited therein).

94. States have a right to satisfy themselves that an association’s aim and activities are in conformity with the rules laid down in legislation, in particular those rules aimed at preventing a political or social organisation from focusing its efforts on achieving a goal which involves undermining the foundations of pluralist democracy (see *Zehra Foundation and Others*, cited above, § 56). That right is subject to the exceptions set forth in Article 11 § 2, unless it has been clearly established that the organisation in question engaged in activities or performed acts aimed at destroying the rights and freedoms set forth in the Convention (see *Hizb Ut-Tahrir and Others v. Germany* (dec.), no. 31098/08, 12 June 2012; *Kasymakhunov and Saybatalov*, cited above, § 103; and *Vona*, cited above, § 38; concerning freedom of expression, see also, *mutatis mutandis*, *Perinçek*, cited above, § 114, and *Pastörs v. Germany*, no. 55225/14, § 37, 3 October 2019).

95. The Court has defined the limits within which political organisations can continue to enjoy the protection of the Convention while engaging in their activities. It has found that such an organisation may advocate a change in the law or the legal and constitutional structures of the State on two conditions: firstly, the means used to that end must be legal and democratic; secondly, the change proposed must itself be compatible with fundamental democratic

principles. It necessarily follows that a political organisation whose leaders incite violence or put forward a policy which fails to respect democracy or which is aimed at the destruction of democracy and the flouting of the rights and freedoms recognised in a democracy cannot lay claim to the Convention's protection against penalties imposed on those grounds (see *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98 and 3 others, §§ 97 and 98, ECHR 2003-II, and *Kasymakhunov and Saybatalov*, cited above, § 105).

96. The Court refers back to its decision in *Roj TV A/S* (cited above, §§ 32-38) for a summary of the statements or activities that in its view should be exempt, by reason of Article 17, from the protection of Article 10 of the Convention on account of their Islamophobic, antisemitic or racist aims, and/or as constituting incitements to hatred or violence.

97. In the *Hizb Ut-Tahrir and Others* decision (cited above), the Court held that the applicant association – which advocated the use of violence aimed at the violent destruction of the State of Israel and the banishment and killing of its inhabitants – had employed the rights guaranteed by the Convention for ends which were clearly contrary to its values. It rejected the complaint under Articles 10 and 11 of the Convention as incompatible *ratione materiae* with the provisions of the Convention. It confirmed this finding in the *Kasymakhunov and Saybatalov* case (cited above), concerning the applicants' conviction for spreading, in Russia, the ideology described in the *Hizb Ut-Tahrir* case, which fell within the scope of Article 17.

98. The Court has also taken the view that Article 17 of the Convention prevented the founders of an association whose constitution had antisemitic connotations from relying on the right to freedom of association under Article 11 of the Convention to challenge its prohibition, noting in particular that the applicants were essentially seeking to employ that Article as a basis under the Convention for a right to engage in activities contrary to the text and spirit of the Convention (see *W.P. and Others*, decision cited above). The Court reached the same conclusion in the *Garaudy v. France* ((dec), no. 65831/01, ECHR 2003-IX) and *M'Bala M'Bala v. France* ((dec), no. 25239/13, ECHR 2015) decisions, which concerned the use of freedom of expression to antisemitic and negationist ends (for a summary of these decisions, see *Roj TV A/S*, decision cited above, §§ 32 and 37; concerning vehemently antisemitic statements, see also *Pavel Ivanov v. Russia* (dec.), no. 35222/04, 20 February 2007, and *Perinçek*, cited above, § 243, concerning Holocaust denial).

99. It was equally pursuant to Article 17 of the Convention that the Court considered that an applicant convicted for a general, vehement attack against Muslims could not avail himself of the protection afforded by Article 10 (see *Norwood v. the United Kingdom* (dec.), no. 23131/03, ECHR 2004-XI; concerning racist or xenophobic remarks, see also *Glimmerveen and*

Hagenbbek v. the Netherlands, nos. 8348/78 and 8406/78, Commission decision of 11 October 1979, Decisions and Reports 18, p. 198).

100. In the *Molnar v. Romania* decision (no. 16637/06, 23 October 2012), the Court found that the distribution of flyers with the words “Romania needs children, not homosexuals” was such as to cause a serious breach of public order and was contrary to the fundamental values of the Convention and of a democratic society, and that such an act was not protected by Article 10 (by contrast, for statements where it was not immediately clear that they had sought to incite violence or homophobic hatred, see *Lilliendahl v. Iceland* (dec.), no. 29297/18, § 26, 11 June 2020).

101. Lastly, the Court would point out that it has declared inadmissible several cases concerning Holocaust denial and statements about Nazi crimes under Article 10 and/or 17 of the Convention, either as manifestly ill-founded (for a recent example, see *Williamson v. Germany* (dec.), no. 64496/17, 8 January 2019) – relying on Article 17 as an aid for interpreting Article 10 § 2 of the Convention and to support its finding that the interference in question had indeed been necessary – or as incompatible *ratione materiae* with the provisions of the Convention in the light of Article 17 of the Convention (see *Pastörs*, cited above, § 36, and the authorities cited therein). In the *Refah Partisi (the Welfare Party) and Others* judgment (cited above, §§ 96 and 98) concerning the dissolution of a political party whose policy was to set up a regime based on Sharia law, the Court also made use of Article 17 of the Convention – without ruling as to its applicability – in support of its finding that there had been no violation of Article 11 of the Convention.

2. Application of those principles to application no. 77400/14

(a) Admissibility

102. The Court notes that the applicant’s complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

103. On this point, the Court observes that, contrary to the position adopted in respect of the other two applications, the Government did not rely on Article 17 of the Convention here. For its part, the Court notes that, while the *Conseil d’État* held that, taken together, Troisième Voie and the JNR had formed a private militia within the meaning of point 2 of Article L. 212-1 of the DSC and that this ground alone had justified their dissolution, it also held that the other ground adduced in the dissolution decree as to the association’s alleged incitement of hatred, discrimination or violence within the meaning of point 6 of that same provision (see paragraph 23 above) had been unlawful. The Court takes note of the *Conseil d’État*’s legal characterisation of the facts, which does not disclose *prima facie* any conduct of the applicant aimed at

destroying the rights and freedoms set forth in the Convention. In the Court's view, it is not necessary in the present case to determine whether the complaint is incompatible *ratione materiae* with the provisions of the Convention. In any event, the Court observes that the arguments put forward by the Government under paragraph 2 of Article 11 of the Convention (see paragraphs 62 and 66 above) will require it to assess the compatibility of the activities of Troisième Voie and the JNR with the Convention's fundamental values of tolerance, justice and peace.

(b) Merits

104. The Court finds that the dissolution of Troisième Voie and the JNR constituted an interference with the applicant's right to freedom of association as secured by Article 11 of the Convention (see paragraph 58 above).

105. The Court notes that the dissolution was ordered by the Government on the basis of the situations provided for in points 2 and 6 of Article L. 212-1 of the DSC. The domestic court upheld the first ground for dissolution, namely the existence of a private militia, but considered that it had not been presented with sufficient evidence to substantiate the second ground concerning incitement of discrimination, hatred or violence (see paragraph 23 above). The Court therefore does not propose to examine that aspect of the activities of the groups led by the applicant, although it may potentially be taken into consideration in assessing the general context of the case (see, *mutatis mutandis*, *National Turkish Union and Kungyun v. Bulgaria*, no. 4776/08, § 40, 8 June 2017).

106. The Court finds that the interference was prescribed by law, namely by point 2 of Article L. 212-1 of the DSC. In particular, although the applicant had pre-empted the dissolution order issued by decree through the voluntary dissolution of the Troisième Voie association and the JNR, the domestic authorities considered that these entities remained "*de facto* groups" for the purposes of the aforementioned statute and, as such, had been eligible for dissolution. Moreover, the impugned dissolution was equally designed to prevent the re-formation of the entities concerned, which also constituted an offence under the final paragraph of Article L. 212-1 of the DSC, a provision which might have been circumvented, according to the *Conseil d'État*, by voluntary dissolution. Accordingly, the Court does not endorse the applicant's submission that the dissolution decree could not be issued on the basis of Article L. 212-1 du DSC.

107. The Court considers that the impugned measure can be regarded as having pursued the aims of protecting public safety, the prevention of disorder and the protection of the rights of others, all of which constitute legitimate aims for the purposes of Article 11 § 2 of the Convention.

108. It remains to be determined whether the measure in question was necessary in a democratic society, and this requires the Court to ascertain whether the grounds adduced by the domestic courts were relevant and

sufficient to demonstrate a “pressing social need”, and whether the measure was proportionate to the legitimate aims pursued.

109. The Court notes at the outset that *Troisième Voie* was not a political party seeking election but rather an association with a political programme – the promotion of revolutionary nationalist ideology – advocated by the applicant, who was a leading figure of the right-wing extremist tendency, a fact which should encourage it to give more rigorous scrutiny to a restriction on the right to associate than it would in the case of a non-political association (see *Vona*, § 58, and contrast *Les Authentiks and Supras Auteuil 91*, § 84, both cited above).

110. The Court observes that the group’s dissolution was prompted by a specific act rather than by its stated aims or the political message it conveyed, or even the purely political positions of its leader, the applicant. The authorities’ decision to dissolve *Troisième Voie* and its security squad, the JNR, was taken following the death of the young C.M., in the light of the breaches of public order that this violent incident had sparked. This was a decisive factor in the impugned decision since, according to the Minister of the Interior in his observations before the *Conseil d’État*, it revealed a “situation of heightened conflict between far-left and far-right activists” against a “background of debates and clashes surrounding the Marriage Equality Act”. There had thus been a “context of tension” which suggested that “the actions of ... *Troisième Voie* and the JNR ... were ... even more likely than in the past to degenerate into serious breaches of public order” (see paragraph 19 above).

111. In addition to this act of violence, which was mentioned in the dissolution decree, the Court notes that both the executive authority and the *Conseil d’État* took into account the previous activities of the groups considered to have formed a “private militia”. It observes, in particular, that to substantiate such a legal characterisation, they took into consideration the hierarchical structure of the JNR – with which the members of *Troisième Voie* were closely interconnected – which were centred around a leader, the applicant, and had “Believe, fight, obey” as their slogan; the fact that they held uniformed rallies in the form of parades in keeping with the military style cultivated by their members; and the fact that they recruited members based on their ability to use physical force in the event of clashes (see paragraphs 13 and 17 above).

112. In the *Vona* judgment (cited above), the Court pointed out that an association’s goals could not be determined solely on the basis of the formal content of its constitution; its real aims and activities had to be taken into account (*ibid.*, § 69). It emphasised that paramilitary rallies were designed to instil fear and that the State was entitled to take preventive measures to protect democracy *vis-à-vis* non-party entities if a sufficiently imminent prejudice to the rights of others threatened to undermine the fundamental values on the

basis of which a democratic society existed and functioned (ibid., §§ 57, 66 and 69).

113. In the present case, although the individual applicant submitted that the JNR did not constitute a private militia within the meaning of point 2 of Article L. 212-1 of the DSC, the Court reiterates that it is in the first place for the national authorities, notably the courts, to interpret and apply domestic law. The Court's task is merely to review the decisions delivered by the authorities within their margin of appreciation. In so doing, it must satisfy itself that they based their decisions on a reasonable assessment of the relevant facts (see *Vona*, cited above, § 62). In the present case, the Court cannot regard as unreasonable or arbitrary the criteria applied by the *Conseil d'État* in finding that the JNR constituted more than just a conventional security squad for Troisième Voie. It is clear from the information provided by the Minister of the Interior that the JNR in fact engaged in activities as a group of military-style organisation and appearance (see paragraphs 16 and 17 above). The Government also emphasised the threatening and aggressive nature of the JNR, providing photos of their rallies and examples of attacks perpetrated by their members in the service of an extremist ideology. The applicant did not dispute the authenticity of this evidence.

114. The Court finds that the French authorities had reason to fear that such a group – which had emerged from the skinhead movement, with its symbols, uniforms, training, cult of power and salutes, and had a well-known propensity for violence, the latter even constituting its *raison d'être* (see paragraph 48 above) – would promote a climate of violence and intimidation that went beyond the existence of a group expressing offensive or disturbing ideas (see, *mutatis mutandis*, *Vona*, cited above, § 66). It is true that this group had held perfectly lawful parades on various occasions alongside members of Troisième Voie to express their common ideology, of which the applicant was a proponent. The Court nevertheless observes that the ideology in question had “spill[ed] over into numerous acts of violence” (see paragraphs 13, 18 and 65 above), as demonstrated by the surveillance activity and by the criminal offences committed, and had, over time, created a climate which posed a threat to the rights and freedoms of others and to public order.

115. The applicant also submitted that members' personal actions could not be attributed to his organisations. The Court finds, however, that the applicant himself, in his capacity as chair, had advocated political violence by inciting others to engage in combat and in physical attacks on anti-fascist movements and law-enforcement. He had justified such use of force in statements published on the Troisième Voie website (see paragraph 17 above). In this connection, the Court takes note of the parliamentary commission of inquiry's concern over the circumvention strategies adopted by groups to avoid liability and distance themselves from their members' actions (see paragraph 50 above). It does not see any evidence in the circumstances of the present case to show that the applicant had distanced

himself from the acts of violence perpetrated by members of the groups led by him. In particular, the Court notes that he had not condemned the death of C.M., but rather had defended the unlawful act committed by supporters or members of his association (see the third paragraph of the Decree of 12 July 2013, cited in paragraph 13 above).

116. Lastly, the Court notes that the JNR and Troisième Voie were interconnected to such a degree that the applicant's submissions to the effect that the latter was promoting a peaceful political agenda are meaningless. The JNR enabled the Troisième Voie to attain its goals, which were in fact seditious (see paragraphs 17 and 18 above) and involved, based on the evidence before the Court, resorting to acts of violence such as those that caused the death of C.M. The Court reiterates in this connection that "the demonstration by political protagonists of their ability and willingness to organise a paramilitary force goes beyond the use of peaceful and lawful means of articulating political views" (see *Vona*, cited above, § 66).

117. In the light of the above considerations and of the context in which the measures complained of were taken, the Court acknowledges that the authorities concerned justifiably considered that there were relevant and sufficient reasons demonstrating a "pressing social need" to order the impugned dissolution so as to prevent and put an end to breaches of public order.

118. As to the measure's proportionality to the legitimate aims pursued, the Court acknowledges that the dissolution of an association is a drastic measure (*ibid.*, § 71, and *Les Authentiks et Supras Auteuil 91*, cited above, § 80).

119. The Court takes the view that, given the seriousness of the events of 5 June 2013, which confirmed past breaches of public order, the Government may rightly have considered it necessary to have recourse to this measure of last resort. This measure was thus appropriate in a tense atmosphere of displays of intolerance by organisations that were part of the extremist radical movement to which Troisième Voie and its security squad belonged. In that context, the Government had reason to believe that their continued existence would be perceived by the general public, and in particular among the youth, as an indirect legitimisation of past and future breaches of public order (see *Vona*, cited above, § 71).

120. Admittedly – for want of the ability to suspend the groups in question, for example – the Government lacked a less intrusive legal framework as an alternative to the impugned restriction. Nevertheless, the Court notes that the *Conseil d'État* found that a fair balance had been struck between respect for freedom of association and the protection of public order. Thus, the domestic court carried out a comprehensive review of the legal characterisation of the facts, as demonstrated by its rejection of the second ground adduced for dissolution (point 6 of Article L. 212-1 of the DSC) for lack of material evidence produced by the authorities, and by its detailed

examination of the constituent elements of a private militia (point 2 of Article L. 212-1 of the DSC) based on the voluminous material provided by the Minister in the course of the proceedings. While the *Conseil d'État* did not expressly lay out its reasoning concerning the impugned measure's proportionality, it can be seen from the material before the Court that it examined whether that measure had been compatible with the "the fundamental principle of freedom of association, as recognised by the laws of the Republic" (see paragraph 13 above), taking into account the "seriousness of the breaches of public order", which had been clearly established by the Minister in his written observations, and regard being had to the past and present context surrounding the death of C.M. (see paragraphs 17-19 and 21 above).

121. Moreover, the Court is mindful that, for the domestic authorities, assessing the proportionality of a dissolution under domestic law entailed examining whether such a measure was useful, effective and necessary for the purpose of putting an end to the threat to public order. It finds that, by reason of their direct and continuous contact with the vital forces of their countries, State authorities are in principle in a better position than the international judge to give an opinion on the proportionality of an interference seeking to protect a democratic society in which public order has been undermined from the activities of an association that is engaged in violence. In addition to the legal framework in place that criminalised the re-formation of dissolved associations or groups (see paragraphs 43 and 44 above), which the voluntary dissolution of the JNR and of Troisième Voie enabled them to circumvent, the Court notes the parliamentary commission of inquiry's finding as to the deterrent effect of the administrative dissolutions in question, which "disorganis[ed] [such] groups" (see paragraph 49 above). The Court is thus entitled to consider that the measures taken by the domestic authorities were necessary to prevent the breaches of public order in question as effectively as possible. The Court would also point out in this connection that where there has been incitement to violence against an individual or a public official or a sector of the population, the national authorities enjoy a wider margin of appreciation when examining the need for an interference with freedom of expression under Article 11 (see *Schwabe and M.G. v. Germany*, nos. 8080/08 and 8577/08, § 113, ECHR 2011 (extracts), and *Les Authentiks and Supras Auteuil* 91, cited above, § 84).

In view of that margin of appreciation and of the specific circumstances of the case, the Court finds that the dissolution can be considered to have been proportionate to the aim pursued.

122. In conclusion, the interference was necessary in a democratic society. Accordingly, there has been no violation of Article 11 of the Convention, read in the light of Article 10.

3. *Application of the general principles to applications nos. 34550/15 and 34532/15*

Admissibility

123. The Court notes that the Government considered that these applications should be declared inadmissible as being incompatible *ratione materiae* with the provisions of the Convention in the light of Article 17. It will therefore examine the question whether Article 17 is applicable to the present applications. That provision reads as follows:

“Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”

124. For the purposes of its examination, the Court refers to the principles set out in paragraphs 92-101 above.

(a) Preliminary remarks

125. The Court observes that the event that gave rise to the Minister’s intention to dissolve the applicant associations under Article L. 212-1 of the DSC was the death of C.M., an act in which their members had not taken part. It also notes that, since their legal registration, and prior to the events of 5 June 2013, the applicant associations had not been prosecuted in connection with the pursuit of their stated aims, with only individual members being arrested or convicted for their personal actions, although the associations had been monitored by the intelligence services as groups that were liable to cause breaches of public order. The Court further notes that the applicant associations were not political parties but had a political programme which they had expounded or defended for many years at rallies or on their website before being dissolved. Taken together, the above considerations led them to criticise their dissolution by the French authorities as “political” and aimed at eliminating radical opponents of the governing political forces (see paragraphs 27, 37 and 83 above). It is with these considerations in mind that the Court must examine the applicants’ complaint.

126. Undoubtedly, the dissolutions in question had a political dimension: they were initiated following a procedure that included an investigation by the intelligence services into the associations’ or their members’ violent, hateful conduct (see paragraphs 47 and 48 above), which were the expression of their underlying ideology, and a proposal from the Minister of the Interior to this effect, and were subsequently ordered by a presidential decree. Moreover, although they represented an *extremely* marginal movement, the Court finds that the applicant associations formed part of the class of organisations of a political nature which have “influence” within the democratic system (see *Vona*, cited above, §§ 56 and 58). However, the Court

has held repeatedly that pluralism, tolerance and broadmindedness are hallmarks of a “democratic society” (see paragraph 85 above) and that freedom of political debate – however disturbing (see *Association of Citizens “Radko” and Paunkovski v. the former Yugoslav Republic of Macedonia*, no. 74651/01, § 76, ECHR 2009 (extracts), and *Zehra Foundation and Others v. Turkey*, cited above, § 55) – is at the very core of the concept of a democratic society which is inherent in the Convention as a whole (see *Lingens v. Austria*, 8 July 1986, § 42, Series A no. 103, and *Navalnyy*, cited above, § 133).

127. The Court will therefore focus its examination on the compatibility of the applicant associations’ programme and political activities with the foundations of democracy.

128. Beforehand, it would emphasise, in reply to the applicants who alleged political motives for the application of Article L. 212-1 of the DSC, that the decrees ordering the dissolutions were issued following adversarial proceedings during which they were able to present their observations. Furthermore, the urgent applications judge was asked to stay the execution of those decrees and an action to have them set aside was lodged with the *Conseil d’État*, which duly reviewed the grounds for dissolution provided for by law. That judicial review was based, in particular, on the principle that dissolution is justified only if the allegations made against an association are established (see paragraph 41 above).

(b) L’Oeuvre française and Mr Benedetti

129. The Court notes that the dissolution of L’Oeuvre française was decided by the Government on the basis of points 2, 5 and 6 of Article L. 212-1 of the DSC on the grounds that the applicant association incited hatred or discrimination towards groups of persons on account of the fact that they were not French citizens or that they were of Muslim or Jewish faith or origin; glorified collaboration with the enemy; and constituted a private militia. For its part, the *Conseil d’État* found “clear and concordant” evidence on which to give a legal characterisation of the facts of the case and went on to hold that the dissolution had been justified on public-order grounds.

130. The Court notes that the constitution of L’Oeuvre française disclosed the association’s nationalist aims, namely “the recovery by the French of a sovereign national State” that was “independent *vis-à-vis* the outside world”. This is a political orientation that is part of the French political landscape. Beyond that goal, and in accordance with the Court’s established case-law, its leader’s acts and the positions he defended were examined in detail by the French authorities when deciding on the impugned dissolution. The evidence produced in that regard during the domestic proceedings and before the Court revealed the following.

131. Firstly, via their website, the association and its chair called for a national revolution guided by a general concern to be rid of those who were

“not white” – “the parasites” who were “destroying” the sovereignty of France. This xenophobic appeal was accompanied by the dissemination of the idea that “political Judaism” was seeking to destroy the identity of France and publications against Jews by individuals who were notorious for their antisemitism and with whom Mr Benedetti – an avowed antisemite himself – maintained close ties. There was also evidence that individuals known and convicted for their negationist views had taken part in the events or camps organised by the applicants. Mr Benedetti, for his part, held such views (see paragraph 51 above). Thus, through references to those responsible for antisemitic or racist theories or publications, all the statements published by the applicant association and its leader contained material inciting and justifying discrimination.

132. Secondly, it was shown to the *Conseil d’État* that L’Oeuvre française and its leader were apologists for individuals who had collaborated with Nazi Germany. They thus glorified Marshal Pétain and the ideology of the Vichy regime, which was responsible for the deportation to extermination camps of tens of thousands of Jews located in France. They marked their identification with this regime by wearing the Celtic cross, which was commonly associated with neo-Nazi and neofascist far-right movements, and by using it as a symbol during commemorations, but also during a summer camp placed under the patronage of Philippe Pétain. In their writings and publications they claimed ideological kinship with individuals who were favourable to collaborating with the enemy. Lastly, if in power, they would seek to implement Philippe Pétain’s national revolution, along with its racial legislation, thereby reviving a painful past for which, owing to the work of time, the State’s responsibility had been recognised (see Opinion of the *Conseil d’État*, Plenary, 16 February 2009, no. 315499).

133. Thirdly, the evidence before the Court shows that the organisation of paramilitary training camps by the applicants enabled the dissemination of the ideology promoted by the association and the training of young activists to become “political soldiers”. This aspect of the applicants’ activities highlights their aims of indoctrination and training, in particular of youth. Given the ideology thus propagated and the paramilitary training exercises thus conducted, the Court views the above as a threat to education in democratic citizenship, which is essential to combatting racism and xenophobia (see *Seurot v. France* (dec.), no. 57383/00, 18 May 2004).

134. The Court infers from the sum of the evidence produced in the domestic courts, and now before it, that the real aims pursued by the applicant association and its leader, as understood and implemented by the former’s members – on various occasions in a violent manner (see paragraph 30 above) – unequivocally involved incitements to hatred and racial discrimination, which are prohibited under the Convention (see paragraphs 92-101 above). It observes that the applicants did not deny this finding, having merely disputed or downplayed the facts. Consequently, it takes the view that, through the

political positions they endorsed, the propaganda they disseminated and the actions they organised in support of those positions, the applicants sought to employ their right to freedom of association to destroy the ideals and values of a democratic society. Their activities were thus incompatible with the foundations of democracy.

(c) The Jeunesses nationalistes and Mr Gabriac

135. The Court notes that the dissolution of the applicant association was ordered by the Government on the basis of the situations provided for in points 5 and 6 of Article L. 212-1 of the DSC. The *Conseil d'État* accepted the second ground for dissolution, namely incitement to hatred, discrimination or violence. However, it considered that it did not have sufficient evidence to establish the first ground, namely the glorification of collaboration with the enemy. That aspect may potentially be taken into consideration in assessing the general context of the case (see paragraph 105 above).

136. The Court finds that the considerations set forth in paragraphs 130-134 above also apply to the application lodged by Mr Gabriac and the Jeunesses nationalistes. It notes that the latter constituted L'Oeuvre française's youth branch (see paragraph 34 above). The evidence before the Court reveals close ties between the leaders of the two associations and a common ideology. As in the case of L'Oeuvre française, the Court finds that it has been shown that the political programme of the Jeunesses nationalistes association, as borne out by its posts, its slogans and interviews with its leader, involved the pursuit of aims that were hateful and discriminatory towards Muslim immigrants and advocated visceral antisemitism and violent hatred and discrimination towards homosexuals (see paragraph 78 above). Mr Gabriac's real aims, and those of his association, were expressed through statements, point-blank claims, activities, collective actions and support which had set the association on a decidedly anti-democratic course.

137. The Court concludes from the foregoing considerations that the applicants sought to employ their right to freedom of association to destroy the ideals and values of a democratic society. Their activities were thus incompatible with the foundations of democracy.

(d) Conclusion

138. Having regard to the foregoing, the Court takes the view that the State had reason to believe that the applicant associations and their leaders had pursued aims prohibited by Article 17 and that, as radical organisations which posed a threat to the democratic political process and were incompatible with the values of tolerance, social harmony and non-discrimination underlying the Convention, they had abused their right to freedom of association. In the Court's view, their dissolution was the result

of decisions taken in the light of detailed knowledge of the domestic political situation and for the benefit of a “democracy capable of defending itself” (see *Perinçek*, cited above, § 242) in the context of persistent and rising racism and intolerance in France and Europe (see paragraphs 52-54 above).

139. Accordingly, the Court finds that, pursuant to Article 17 of the Convention, these applicants cannot avail themselves of the protection afforded by Article 11 of the Convention, considered in the light of Article 10. It follows that their complaints must be dismissed as being incompatible *ratione materiae* with the provisions of the Convention pursuant to Article 35 §§ 3 and 4 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* application no. 77400/14 admissible and applications nos. 34532/15 and 34550/15 inadmissible;
3. *Holds* that there is no need to make a separate examination of application no. 77400/14 under Article 10 of the Convention;
4. *Holds* that there has been no violation of Article 11, read in the light of Article 10 of the Convention, in application no. 77400/14;

Done in French, and notified in writing on 8 October 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytschik
Registrar

Síofra O’Leary
President

APPENDIX

List of applicants:

Application No.	Case Name	Lodged on	Applicant Year of Birth Nationality	Represented by
77400/14	Ayoub v. France	10/12/2014	Serge AYOUB 1964 French	N. GARDERES
34532/15	Benedetti and Oeuvre Française v. France	09/07/2015	Yvan BENEDETTI 1965 French and OEUVRE FRANCAISE French	P.-M. BONNEAU
34550/15	Gabriac and Jeunesses Nationalistes v. France	09/07/2015	Alexandre GABRIAC 1990 French and JEUNESSES NATIONALISTES Lyon French	P.-M. BONNEAU