



## The dissolution of extreme right-wing organisations did not breach the Convention

In today's **Chamber** judgment<sup>1</sup> in the case of [Ayoub and Others v. France](#) (applications nos. 77400/14, 34532/15 and 34550/15) the European Court of Human Rights unanimously declared application no. 77400/14 admissible and the remaining applications inadmissible on account of an abuse of rights (Article 17 of the Convention). The Court held, unanimously, that there had been:

**no violation of Article 11** (freedom of assembly and association) of the European Convention on Human Rights, read in the light of **Article 10** (freedom of expression), in relation to application no. 77400/14.

The cases concerned the administrative dissolution of three extreme right-wing entities: a *de facto* group (the Troisième Voie association and its security squad) and two associations (L'Oeuvre française and Jeunesses nationalistes).

The Court held that the dissolution of the association Troisième Voie and of its security squad, the Jeunesses nationalistes révolutionnaires, had been aimed at ensuring public safety, preventing disorder and protecting the rights of others, all of which constituted legitimate aims for the purposes of Article 11 § 2 of the Convention. In view of the information on file and the context – the death on 5 June 2013 of C.M., a student at Sciences Po and a member of the anti-fascist movement, in a fight with skinheads – the Court accepted that the authorities had been justified in finding that there were relevant and sufficient reasons demonstrating a “pressing social need” to order the dissolution of the associations concerned so as to prevent and put an end to public disorder.

The Court observed that the associations L'Oeuvre française and Jeunesses nationalistes had pursued aims prohibited by Article 17 of the Convention and had abused their right to freedom of association in a manner incompatible with the values of tolerance, social peace and non-discrimination underpinning the Convention.

### Principal facts

The applicants are: Mr Serge Ayoub (application no. 77400/14), a French national who was born in 1964, lives in Soissons (France) and was the leader of the association Troisième Voie (Third Way) and of its security squad, the Jeunesses nationalistes révolutionnaires (JNR – Revolutionary Nationalist Youth), prior to their dissolution; the association L'Oeuvre française (The French Work) and its president, Mr Yvan Benedetti (application no. 34532/15), a French national who was born in 1965 and lives in Paris; and the association Jeunesses nationalistes (Nationalist Youth) and its president, Mr Alexandre Gabriac (application no. 34550/15), a French national who was born in 1990 and lives in Meylan.

The associations were dissolved in July 2013 following the death, on 5 June 2013, of C.M., a student at Sciences Po (Paris Institute of Political Studies) and a member of the anti-fascist movement, in a fight with skinheads. Several individuals were placed under formal investigation. The investigation

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

established that after the fight, the individuals concerned had met at Le Local, a bar run by Mr Ayoub, with whom they were in contact by telephone before and after the fight and throughout that night. On 14 September 2018 the Paris Assize Court sentenced two former members and/or supporters of Troisième Voie to eleven and seven years' imprisonment for the manslaughter of C.M. by wilful armed assault, committed as part of a group. The criminal proceedings are still ongoing.

*Application no. 77400/14*

Mr Serge Ayoub was the president of the association Troisième Voie, the aim of which was “to promote nationalist and revolutionary ideology”, and the leader of its security squad, the JNR, a *de facto* group. On 11 June 2013 Mr Ayoub was informed of the government's intention to dissolve his association and the JNR. On 18 June 2013 Mr Ayoub informed the Minister of the Interior of the voluntary dissolution of the JNR and Troisième Voie. The government then informed him of its intention to proceed with the dissolution, noting that the association had continued to operate, thus prompting the conclusion that there was still a *de facto* group carrying out the same activities. In a decree of 12 July 2013 the President of France ordered the dissolution of the JNR and Troisième Voie. On 18 July and 15 October 2013 Mr Ayoub applied to the *Conseil d'État* to have the decree set aside, arguing that the decision had been political in nature. The *Conseil d'État* rejected the application.

*Application no. 34532/15*

In 2012 Mr Benedetti was appointed president of L'Oeuvre française. On 28 June 2013 the Minister of the Interior informed Mr Benedetti of the government's intention to dissolve the association. In a decree of 25 July 2013 the President of France ordered its dissolution. On 21 September 2013 Mr Benedetti applied to have the decree set aside. In a judgment of 30 December 2014 the *Conseil d'État* rejected the application.

*Application no. 34550/15*

Mr Gabriac was president of the Jeunesses nationalistes association, which was registered on 19 October 2011. According to the Government, the association is the youth wing of L'Oeuvre française. On 24 June 2013 the Minister of the Interior informed Mr Gabriac of the government's intention to dissolve the applicant association. Jeunesses nationalistes and Mr Gabriac as its president lodged an urgent court application for a stay of execution of the dissolution decree, which they also sought to have set aside. In a judgment of 30 December 2014 the *Conseil d'État* rejected the application.

## Complaints, procedure and composition of the Court

Relying on Articles 10 (freedom of expression) and 11 (freedom of assembly and association), the applicants complained that the dissolution of the associations led by them amounted to unjustified interference with the exercise of their right to freedom of association and freedom of expression.

The application was lodged with the European Court of Human Rights on 10 December 2014.

Judgment was given by a Chamber of seven judges, composed as follows:

Síofra O'Leary (Ireland), *President*,  
Gabriele Kucsko-Stadlmayer (Austria),  
Ganna Yudkivska (Ukraine),  
Mārtiņš Mits (Latvia),  
Latif Hüseyinov (Azerbaijan),  
Lado Chanturia (Georgia) and  
Jean-Marie Delarue (France), *ad hoc Judge*,

and also Victor Soloveytkhik, *Section Registrar*.

## Decision of the Court

### [Article 11 \(freedom of assembly and association\) in the light of Article 10 \(freedom of expression\)](#)

The Court reiterated that the protection of opinions and the freedom to express them, as secured by Article 10 of the Convention, was one of the objectives of freedom of assembly and association as enshrined in Article 11. Hence, Article 11 was to be read in the light of Article 10.

#### *Application no. 77400/14*

The Court noted that the dissolution of the association Troisième Voie and of the JNR had been ordered by the government on the basis of the situations contemplated in paragraphs 2 and 6 of Article L. 212-1 of the Homeland Security Code (*Code de la sécurité intérieure* – CSI). The judge’s decision had been based on the first ground for dissolution, namely the existence of a private militia. However, the judge had ruled that there was insufficient evidence of the existence of the second ground, namely incitement to discrimination, hatred or violence.

The Court therefore found that the interference had been prescribed by law. Although the applicant had anticipated the dissolution order by voluntarily dissolving the association Troisième Voie and the JNR, the authorities had taken the view that those entities continued to be “*de facto* groups” which could be dissolved under the aforementioned statutory provision. The dissolution had also been designed to prevent the re-formation of the entities concerned. This was an offence under the final paragraph of Article L. 212-1 of the CSI, a provision which the voluntary dissolution might have served to circumvent.

The Court considered that the dissolution order could be regarded as being aimed at ensuring public safety, preventing disorder and protecting the rights of others, all of which constituted legitimate aims for the purposes of Article 11 § 2 of the Convention.

The Court noted that Troisième Voie was not a political party seeking election but rather an association which pursued a political programme defined as a revolutionary nationalist ideology. The Court observed that the dissolution had been prompted by a specific act rather than by the group’s aims or political statements or the political views of its president. The French authorities’ decision to dissolve the association and the JNR had been taken following C.M.’s death, in view of the public disorder sparked by the violent incident. This had been a decisive factor in the decision; according to the Minister of the Interior in his memorial before the *Conseil d’État*, the incident had disclosed “a situation of heightened conflict between left and right-wing extremists” against a “background of debates and clashes surrounding the Marriage Equality Act”. There had thus been a “context of tension” which suggested “even more than in the past [that] the actions of Troisième Voie and the JNR were liable to degenerate into serious public disorder”. In addition to this act of violence, the Court noted that the executive and the *Conseil d’État* had taken into account the groups’ previous activities as private militias. Hence, they had taken into consideration the hierarchical structure of the JNR, the fact that it held uniformed rallies and military-style parades and the fact that it recruited members on the basis of their ability to use physical force in the event of clashes. The Court pointed to its case-law ([Vona v. Hungary](#)) emphasising that paramilitary rallies were designed to engender fear and stressing the right of States to take preventive action to protect democracy.

In the circumstances of the present case the Court could not regard as unreasonable or arbitrary the criteria applied by the *Conseil d’État* in finding that the JNR constituted more than a conventional security squad for the association Troisième Voie. It was clear from the information provided by the Minister of the Interior that the JNR in fact carried out activities as a group of military-style organisation and appearance. The Government had also emphasised its threatening and aggressive

nature. In the Court's view, the authorities had had reason to fear that a group of this nature would promote a climate of violence and intimidation going beyond the existence of a group expressing offensive or disturbing ideas. The Court observed that the ideology in question had spilled over into numerous acts of violence, as demonstrated by the surveillance activity and by the criminal offences committed. Over time, this had led to a climate which posed a threat to the rights and freedoms of others and to public order. The Court observed that Mr Ayoub himself, as the president, had advocated political violence by inciting others to engage in combat and in physical attacks on anti-fascist movements and the law-enforcement agencies. The JNR had enabled the association *Troisième Voie* to attain goals that were in fact seditious, entailing recourse to violent actions such as those which had led to C.M.'s death.

In view of these considerations and of the context in which the measures had been taken, the Court accepted that the authorities had been justified in finding that there existed relevant and sufficient reasons demonstrating a "pressing social need" to order the dissolution of the groups in question so as to prevent and put an end to public disorder.

As to whether the measure had been proportionate, the Court found that the authorities' action had been necessary in order to prevent public disorder. It reiterated that in cases of incitement to violence against an individual, a representative of the State or a section of the population, the national authorities benefited from a broader margin of appreciation in their assessment of the necessity of interference under Article 11.

In view of this margin and of the particular circumstances of the case, the Court held that the dissolution measure could be regarded as proportionate to the aim pursued. The interference had thus been necessary in a democratic society.

There had therefore been no violation of Article 11 read in the light of Article 10.

#### [Article 17 \(prohibition of abuse of rights\)](#)

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

The Government argued that the applications should be declared inadmissible as being incompatible with the provisions of the Convention under Article 17. The Court decided to focus its examination on the compatibility of the applicants' programme and political activity with the foundations of democracy.

The Court noted that the dissolution of *L'Oeuvre française* had been ordered by the government on the basis of paragraphs 2, 5 and 6 of Article 212-1 of the CSI, that is, on the grounds that the association incited hatred or discrimination towards groups of people on account of the fact that they were not French citizens or the fact that they were of Muslim or Jewish faith or origin, that it glorified collaboration with the enemy and that it constituted a private militia. The *Conseil d'État* had ruled that the dissolution had been justified for reasons inherent in public order.

The Court observed that the authorities had studied the actions and views of the association's president in detail before ordering the association's dissolution. Firstly, the association and its president had called for a national revolution motivated by a general wish to get rid of "non-whites", "parasites" who were destroying France's sovereignty. Alongside this xenophobic call they had propagated the idea that "political Judaism" was seeking to destroy France's identity. Individuals known for their negationist views and convicted on that account had taken part in the events organised by the applicants. Secondly, it had been demonstrated in the proceedings before the *Conseil d'État* that *L'Oeuvre française* and its president had expressed support for persons who had collaborated with Nazi Germany. They were admirers of Marshal Pétain and the ideology of the Vichy regime, identifying with that regime by using a Celtic cross as an emblem during commemorations and at a summer camp organised in the name of Philippe Pétain. They claimed ideological affiliation with public figures who had promoted collaboration with the enemy, and

sought to implement the revolution of Philippe Pétain with its racial laws, thereby reviving a painful past for which the State's responsibility was recognised. Thirdly, paramilitary training camps had been organised in order to spread the association's ideology and train young militants as "political soldiers". This aspect underscored the aim of indoctrinating young people, which in the Court's view represented a threat to education for democratic citizenship, essential for combating racism and xenophobia. The Court inferred from this that the aims espoused by the association L'Oeuvre française and its president undoubtedly contained elements of incitement to hatred and racial discrimination, prohibited under the Convention. Consequently, the Court held that through the political views advocated, the propaganda disseminated and the activities organised to promote those views, the applicants had sought to use their right to freedom of association to destroy the ideals and values of a democratic society.

With regard to Jeunesses nationalistes the Court noted that while the *Conseil d'État* had accepted incitement to hatred, discrimination or violence as a ground for dissolution, it had also found that there was insufficient evidence of the existence of the ground of glorifying collaboration with the enemy.

The Court observed that Jeunesses nationalistes was the youth wing of L'Oeuvre française. As in the case of the latter, the Court considered it established that the political programme of Jeunesses nationalistes contained aims that were based on hatred and discrimination towards Muslim immigrants and promoted antisemitism and violent hatred and discrimination towards homosexuals.

The Court inferred from this that the applicants had sought to use their right to freedom of association to destroy the ideals and values of a democratic society. Their activities had been incompatible with the foundations of democracy.

In the Court's view, the State had been justified in finding that the applicant associations (L'Oeuvre française and Jeunesses nationalistes) and their leaders (Mr Benedetti and Mr Gabriac) had pursued aims prohibited by Article 17 of the Convention. It found that they had abused their freedom of association in a manner incompatible with the values of tolerance, social peace and non-discrimination underpinning the Convention. The dissolution orders had been made on the basis of in-depth knowledge of the domestic political situation and in support of a "democracy capable of defending itself".

Consequently, the Court held that, under Article 17 of the Convention, the applicants could not claim the protection of Article 11 of the Convention read in the light of Article 10. Their complaints therefore had to be rejected as being incompatible with the provisions of the Convention.

*The judgment is available only in French.*

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