[FR] Urgent Referral to the Conseil d'Etat on Broadcasting "Titanic" in two Parts

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On 13 November last year, the Conseil supérieur de l'audiovisuel (official regulatory body - CSA) authorised the channel TF1 to broadcast the film Titanic in two parts on two consecutive evenings the following week. Because of the imminence of the broadcast, ARP, the authors, directors and producers group, submitted to the Conseil d'Etat firstly an application in an urgent matter to suspend the execution of the CSA's authorisation, and secondly an application on the merits of the case to have the authorisation cancelled on the grounds of the CSA exceeding its powers. Since 1 January 2001, administrative judges are indeed allowed, under Article L. 521-1 of the Administrative Justice Code, to order postponement of the execution of an administrative decision where an application has been made for its cancellation or alteration "where this is justified by the urgency of the matter and where grounds are put forward that are such as to raise serious doubts in the course of the investigation as to the legality of the decision".

The plaintiff company claimed that the provisions of Article 73 of the Act of 30 September 1986, according to which "the broadcasting of a cinematographic work (...) by an audiovisual communications company cannot be interrupted by more than one commercial break unless a waiver has been granted by the CSA", prevented a film being broadcast over two days. According to the complainant, the purpose of these provisions was to limit breaks in a cinematographic work as much as possible, as these interruptions split up the work and spoil it. Deliberating on the submissions aimed at having the CSA's decision postponed, the Conseil d'Etat noted that the investigation concerning the application in an urgent matter did not reveal that "the broadcasting in two parts, on two different days, of the film Titanic in a manner accepted by both the film's director and its producerand indeed approved by another professional organisation of film producers, joined to the proceedings - was damaging to either the public interest, the situation of the complainants or the interests it was their aim to defend". The Conseil d'Etat held that the condition of urgency required by Article L. 521-1 of the Code of Administrative Justice could not therefore be deemed met and the request for postponement made to the judge sitting in urgent matters could not be entertained in the present case. TF1 was therefore within its legal rights in broadcasting Titanic on 19 and 20 November last year, whereas it was now for the collegiate bodies of the Conseil d'Etat to look into the matter of the compliance of the CSA's decision with Article 73 of the Act of 30 September 1986.

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Conseil d'Etat statuant au contentieux, ordonnance de référé du 19 novembre 2001, ARP et P. Rogard

Conseil d'Etat deliberating in a dispute, order in an urgent matter of 19 November 2001, ARP and P. Rogard

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