

[FR] Qualification as an “Original French-Language Work” and as a “European Work”

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After the question of the definition of what constitutes an audiovisual work (see IRIS 2002-1: 8), it was the turn recently for the qualification as a cinematographic or audiovisual "original French-language work" and "European work" to benefit from a number of clarifications. In the case in hand, the CSA had refused this qualification for a full-length animated film based on The Diary of Ann Frank that used images from an animated film produced in Japan. The producer of the disputed film had made over the exclusive television broadcasting rights to the Canal + channel subject to the film being qualified as a cinematographic or audiovisual original French-language work. Because the CSA's decision made it impossible to perform the contract and receive the corresponding remuneration, the producer of the film had called on the Conseil d'État to reverse the decision as an urgent matter. In a decision on 12 December 2001, the Conseil d'État recalled that under the terms of Article 5 of the Decree of 17 January 1990, "cinematographic or audiovisual original French-language works are those works produced principally or totally in the French language in their original version (...)". Although the disputed film uses images from an animated film made in Japan, its screenplay and dialogues are nevertheless entirely original, based on the work The Diary of Ann Frank and other, authentically French, elements. Moreover, according to Article 6 of the Decree of 17 January 1990, "European works" comprise those works which firstly are produced by a European undertaking or by an undertaking financed by European capital, and secondly employ European performers and technicians for their production. The Conseil d'État noted that the production company in question was a European undertaking and that the financing for the work was provided by European funds. The expenditure corresponding to the purchase of the Japanese animated film amounted to no more than approximately 12% of the total cost of the work; the remainder had been spent in France on re-editing, screenwriting, dialogues and music. Consequently, the Conseil d'État pronounced the reversal of the CSA's decision to refuse to qualify the disputed film as a European work and an original French-language work.

Conseil d'État (ordonnance de référé), 12 décembre 2001, Sté Globe Trotter Network

Conseil d'État (order in an urgent matter), 12 December 2001, Société Globe Trotter Network

