[FR] Further Referral to the Conseil d'État Concerning the Film "Baise-moi"

IRIS 2002-9:1/23

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The film "Baise-moi" is still being talked about. The association "Promouvoir" will really have done everything in its power to get the Courts to cancel its authorisation and consequently to prevent the film being shown in cinemas. It will be recalled that on 30 June 2000, at the association's request, the Conseil d'État cancelled the authorisation prohibiting the film being shown to anyone under the age of 16 years that had been granted to the film previously, on the grounds that the Decree of 23 February 1990, in its wording in force at the time the certificate was issued, made no provision for a cinematographic work being prohibited from being shown to anyone under the age of 18 years in any other way than by putting the film on the list of pornographic films or those inciting violence (see IRIS 2000-7: 8). The case illustrated the legal vacuum that had previously existed on this point. On 12 July 2001, a Decree amended the Decree of 23 January 1990 by introducing the possibility of combining the certificate granted to a film with a ban on showing it to anyone under the age of 18 years without having the film included on the list of pornographic films or those inciting violence (see IRIS 2001-8: 13). On 1 August 2001, the Minister for Culture and Communication issued the disputed film with a new authorisation in this category. The association "Promouvoir" did not give up and referred the matter again to the Conseil d'État to have this decision cancelled. In its decision of 14 June, the Conseil d'État rejected all the arguments put forward by the applicant. It confirmed that the Minister was able to issue the disputed authorisation without infringing the authority of the res judicata attached to the decision of 30 June 2000 cancelling the previous authorisation for the film. On the content of the case, the Conseil d'État felt that, although the film "Baise-moi" included scenes of considerable violence and scenes displaying non-simulated sex which justified banning it from being shown to anyone under the age of 18 years, the theme of the film and the conditions of its production did not make it a characteristically pornographic film or one that incited violence, which would have required its inclusion on the list of X-rated films. Thus the Minister for Culture and Communication had not committed an error of judgment and had not violated the principle of the dignity of the human person by granting the film an authorisation combined with a ban on showing the film to anyone under the age of 18 years.

Quite separate from this case, the Government issued a Decree on 20 September amending the Decree of 15 May 1992 on access to cinemas for minors. The earlier version of the decree required a poster measuring at least 50 cm bearing

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only the words "Not for showing to minors under the age of 12, 16 or 18 years" to be displayed very conspicuously at ticket offices. The new decree makes no reference to a poster, merely requiring "the mention [of the restriction], made very conspicuously, on the support networks intended to provide the public with information about showings at the cinema".

Conseil d'État, 14 juin 2002, Association Promouvoir

Conseil d'État, 14 June 2002, "Promouvoir" association

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