[FR] Broadcasting Programmes Not to Be Shown to People Under the Age of 18 or to Children Below Certain Age

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On 13 October, the Court of Appeal in Versailles delivered a decision on application of Article 22724 of the Criminal Code. Under this article, the fact of either making, carrying or broadcasting by any means and on any support a message of a violent or pornographic nature or such as to seriously infringe human dignity, or commercialising such a message, is punishable by a three year prison sentence and a fine of 75 000 euros if the message is likely to be seen or noticed by a minor.

In this instance, a case was brought against a teacher of French for having shown to a class in the fourth year of secondary school [i.e. pupils usually aged 15 to 16] the films "Dobermann" and "Trainspotting", which [in France] are not to be shown to anyone under the age of 16, and the film "Léon", which [in France] is not to be shown to anyone under the age of 12. A similar case, but involving other films, was also brought against another teacher.

The Court of Appeal, upholding the decision delivered by the regional criminal court in Versailles on 8 March 2002, considered that showing a film that was not to be shown to anyone under the ages of 12, 16 or even 18 to young people below the required age did not in itself constitute an infringement under Article 22724. This required establishment of the fact that violent, pornographic messages or messages seriously infringing human dignity had been shown to young people below the required age. This is an interesting decision in that it states that showing a message of this type to young people does not necessarily constitute an infringement under Article 22724 of the Criminal Code.

Indeed as the decision states, if this were not so the broadcasting of any scene presenting violent or pornographic aspects or seriously infringing human dignity, the purpose of which was to inform, explain, remind, commemorate or warn, such as films and documentaries about Second World War concentration camps, could give rise to prosecution on these grounds.

The decision lists the conditions necessary for applying this article, i.c. the fulfilment of two conditions: firstly that the material was shown to young people below the required age regardless of their age, and secondly that the message shown may be categorised as violent or pornographic or such as to seriously

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infringe human dignity. Deciding otherwise would render the regulations on different minimum ages pointless. If every showing of this kind, whatever the reason for it, could be automatically prohibited, the only criterion would be whether the viewer was under or over the age of 18, regardless in each case of the message being shown and prohibitions based on the age of the viewer. Moreover, the administrative classification of a film because of certain aspects of its content may not prejudice the categorisation of such aspects by the courts, otherwise any showing of a scene of this kind intended more particularly for information purposes would be covered by this legislation.

Cour d'appel de Versailles 7e , 13 octobre 2003, AAPE de Viroflay, Alicia Delamarre c/D. B. et N. GT

Court of Appeal in Versailles, 7th chamber, 13 October 2003, case of AAPE de Viroflay, Alicia Delamarre v. D.B. and N.GT

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