[NO] Constitutional Amendment Poses Problems for Local Cinema Policy

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When last autumn the Norwegian Parliament amended Article 100 of the Norwegian Constitution (see IRIS 2004-9: 15) which guarantees freedom of expression, the parliamentarians adopted a wording which also restricts the power of local communities to set quality standards for local cinema exhibition practice. Operating a cinema in Norway requires a municipal licence. It has been standard practice for municipalities to grant such licences on condition that the exhibitor undertakes certain cultural obligations in his/her programming, most commonly expressed as a requirement on the exhibitor to maintain a broad selection of film genres, thus offering a diverse choice to audiences of different ages and interests. In particular the needs of children and young people for a varied and diverse programming have been stressed, but conditions in some cases also include demands for equitable exhibition treatment of European and “quality” films.

The legal basis for licensing cinemas and video outlets is to be found in Article 2 of the Lov om film og videogram nr. 21 av 15 May 1987 (the Law on Film and Videogrammes 1987), which stipulates that the municipal council, in granting an operating licence for “the commercial exhibition of and trade in film and videogrammes” may impose conditions for the granting of such licences, and that the municipal council (and the Norwegian Media Authority) may exercise “sufficient control” that the licensee adheres to such conditions (as well as the provisions of the Legal Code relating to pornography and the portrayal of violence), on pain of revocation of the licence. Councils may not, however, impose conditions that effectively ban exhibition of films or videogrammes in their constituency.

Parliament approved a new Constitutional provision for the protection of freedom of expression on 29 October 2004. The fourth sentence of the amended Article 100 now reads “Pre-publication censorship and other preventive measures may not be exercised, except with the aim of protecting children and young people from the harmful effects of moving pictures” (unofficial translation). The parliamentary majority that passed this amendment - and which, in doing so, diverged from the government's proposed wording - observed during the Lower House reading that the new provision “presumably” would be in conflict with cinema licensing obligations other than those intended to protect children and

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young people from the harmful effects of film and video. Taking its cue from the new wording and from the parliamentarian's observations, the Ministry for Cultural and Church Affairs consequently informed all municipalities in a circular dated 31 December 2004 that “the decision [by Parliament in relation to Article 100] implies that the provisions of the Law on Film and Videogrammes relating to local licensing no longer may be applied literally” and that the new text “would be detrimental to attaching content requirements to such licences”, except for considerations relating to children and young people and harmful content.

These unexpected developments have left the local municipalities and the National Association of Municipal Cinemas (NAMC) in a quandary. Observing that most Norwegian communities are too small to support more than one cinema, and that diversity in programming must therefore be ensured by one operator, NAMC spokespersons see the new Article 100 text and the Ministry's express and strict interpretation of it as a blow to any vigorous local cultural policy.

Lov om film og videogram nr. 21, 15.05.2005

http://www.lovdata.no/all/nl-19870515-021.html

Law on Film and Videogrammes 1987

Kongeriget Norges Grundlov, given i Rigsforsamlingen paa Eidsvold den 17de Mai 1814

http://www.lovdata.no/all/tl-18140517-000-006.html#100

Norway's Constitution

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