

[FR] Advertisement and the Roman Catholic Community

IRIS 2007-1:1/17

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On 14 November 2006 the Court of Cassation delivered a noteworthy decision in a case involving an advertisement showing a photograph inspired by Leonardo da Vinci's painting of "The Last Supper" (and by the Da Vinci Code!) to promote a brand of clothing. Unlike the original painting, the characters here were women wearing the brand's clothing, except for one man, whose bare back was shown. The advertisement, measuring 400 square metres, had been attached to the facade of a building in Paris for one month to mark the launch of the spring/summer collection of the brand in question. An association created by the French conference of bishops, considering that the advertising was offensive to the Roman Catholic community and therefore constituted a manifestly unlawful nuisance, called for the advertisement to be banned as an urgent matter. The judge sitting in urgent matters and subsequently the court of appeal of Paris upheld the application, banning the photograph being shown anywhere on any medium, on penalty of payment of a fine of EUR 100,000. It should be recalled that Article 33(2) of the 1881 Act makes unlawful the insulting abuse towards a group of persons belonging to a given religion; according to Article 29(2) of the same Act, "insulting abuse" is defined as "an offensive expression, term of contempt or invective". It was therefore on the basis of "an offensive expression" - a complex concept - that the two courts founded their judgments. They did not contest the artistic and aesthetic dimension of the advertising visual, but the fact remained that its subject matter was the reproduction of Jesus Christ's Last Supper, a fundamental event in Christianity that was an essential element of the Roman Catholic faith. The courts found that the only purpose of the composition was to shock anyone seeing this travesty of the Last Supper, with the addition of the equivocal attitude of some of the characters, in favour of the commercial brand name inscribed beneath the deliberately provocative picture. In the end, the disputed advertising visual was held to be "a clear corruption of an act fundamental to the Christian religion with an eye-catching element of nudity, showing contempt for the sacred nature of the moment", such that the applicant association was indeed justified in claiming that there was serious offence caused to the religious sentiments and faith of Roman Catholics. This was not the first time that a judge sitting in urgent matters had been faced with the sensitivity of Christians shocked by what they considered to be an abuse of the freedom of expression (see IRIS 2002-3: 12 in respect of the poster for the film Amen), and both the French League of Human Rights and the advertising company decided to apply to the court of cassation. On 14 November 2006 the first civil section of the

court of cassation delivered a judgment overturning the appeal judgment, on the grounds that “the purpose of parodying the form given to the representation of the Last Supper was not intended to offend Roman Catholics, nor to cast a slur on them because of their religious obedience”. The court of appeal had therefore violated Articles 29(2) and 33(3) of the aforementioned Act of 29 July 1881, as well as Article 10 of the European Convention on Human Rights, as the disputed representation “did not constitute the insulting abuse of a personal, direct attack on a group of persons because of their belonging to a particular religion”.

Cour de cassation (1e Ch. civ.), 14 novembre 2006, Société Gip et Ligue française pour la défense des droits de l’homme et du citoyen

Decision of the Court of cassation (1st civil section), 14 November 2006, Société Gip et Ligue française pour la défense des droits de l’homme et du citoyen

