[FR] Appeal Against Authorisation Prohibiting Showing of a Violent and Pornographic Film to Anyone under the Age of 18 Years

IRIS 2009-1:1/16

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On 4 November the *Conseil d'Etat* rejected the application made by a cinematographic distribution company for the cancellation of the classification certificate issued one year earlier by the Minister for Culture for the film *Quand l'Embryon Part Braconner* that required that the film was not to be shown to anyone under the age of 18 years. The applicant felt that the decision, based on the violent and pornographic nature of the film, was disproportionate and flawed by a manifest error of appreciation. Backed by the national federation of film distributors, the applicant claimed that "the use of sadistic violence and the misogyny on the part of the male character had a political meaning that was accepted by the director and that was perfectly clear in the characters' speech", an interpretation that was evidently not shared by either the Minister for Culture or the film classification board, which had given its opinion at an earlier stage. In the end the *Conseil d'Etat* upheld the certificate as it was. It held that the Minister had not committed any error of interpretation since the preparatory investigation had demonstrated that the film did indeed contain "numerous scenes of torture and sadistic behaviour of great physical and psychological violence and presented an image of inter-gender relations based on the illegal confinement, humiliation and degradation of the female character, produced in such a way as to be likely to be disturbing to minors". Returning to the violation of Article 10 of the European Convention on Human Rights referred to by the applicant, the *Conseil d'Etat* recalled that the broadcasting ban was based on objective, foreseeable criteria laid down in Article 3-1 of the Decree of 23 February 1990 and met a legitimate, necessary purpose in a democratic society, within the meaning of the stipulations of Article 10 referred to, since it only restricts broadcasting of the film and does not prohibit it.

Conseil d'État (sect. contentieux, 10e et 9e sous-sections réunies), 6 octobre 2008, Soc. Cinéditions c. État français

http://www.conseil-etat.fr/ce/jurispd/index_ac_ld0825.shtml

Conseil d'Etat (litigation section, 9th and 10th sub-sections together), 6 October 2008: the company Cinéditions v the French State

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