[FR] Ban on Broadcasting Programme Showing a Minor in Difficult Circumstances without Obtaining Parents' Authorisation

IRIS 2011-6:1/16

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As part of its duty to protect children and young people, conferred on it by Article 15 of the Act of 30 September 1986, the Conseil Supérieur de l'Audiovisuel (audiovisual regulatory body - CSA) ensures not only the protection of young viewers but also the protection of minors taking part in television programmes. On 17 April 2007 it therefore adopted a deliberation on the participation of persons under the age of 18 in television programmes other than works of fiction (see IRIS 2007-6/17). This text reaffirms the need for young people to be able to express their opinions, and requires editors to obtain consent not only from the minor but also from the person exercising parental authority, to avoid dramatisation or derision in handling the young person's contribution, to ensure that filming conditions and the questions to be asked are suited to the child's age, to make sure the child's participation will not be damaging for its future, and to preserve the child's prospects of personal fulfilment. Editors must also ensure protection of the identity of minors talking about the difficult circumstances of their private lives where there is a risk of stigmatisation after the programme has been broadcast. In keeping with these principles, TF1 has undertaken, under the terms of Article 13 of its convention with the CSA, that when it is considering broadcasting the contribution of a minor facing difficult circumstances in its private life it will ensure the child's anonymity and obtain prior parental authorisation, in compliance with the provisions of the Civil Code.

However, further to TF1's showing of a report entitled Enfants à la dérive ("children adrift"), during which questions were put to a minor placed by the courts with a foster family, and whose identity was concealed, the CSA issued formal notice to the channel to comply with these provisions. The interview had been broadcast despite written refusal on the part of the child's mother. The channel referred the matter to the Conseil d'Etat, requesting cancellation of the formal notice, basing its claim more particularly on the argument that the decision would be contrary to Article 10 of the European Convention on Human Rights. In its decision delivered on 16 March 2011, the Conseil d'Etat stated that the ban, referred to in both Article 13 of the channel's convention and the deliberation of 17 April 2007 on broadcasting a programme including the participation of a minor facing difficult circumstances in its private life without obtaining authorisation from the person exercising parental authority, fell within the scope of the provisions of paragraph 2 of Article 10 of the European

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Convention on Human Rights. The fact that the minor's identity had been concealed was irrelevant. The requirement to obtain parental authorisation even if the minor's identity was concealed did not constitute a disproportionate infringement of the freedom of expression compared with the need to protect children and young people, as the Conseil d'Etat held that there were no grounds of general interest likely to justify not obtaining the authorisation of the person exercising parental authority. TF1's application was therefore rejected.

Conseil d'Etat (5e et 4e sous-sect.), 16 mars 2011 - TF1

http://arianeinternet.conseil-etat.fr/arianeinternet/viewhtml.asp?View=Html&DMode=Html&PushDirectUrl=1&Item=1&fond=DCE&texte=tf1&Page=1&querytype=simple&NbEltPerPages=4&Pluriels=True

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