[FR] Authorisation to Broadcast a Person’s Image - Interpretation by the Court of Cassation

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On 4 November 2011 the first civil chamber of the Court of Cassation delivered an interesting decision on the perimeters of the authorisation given by professionals filmed for the purposes of a documentary. In the case at issue, a number of members of the crime prevention police unit in Nice had agreed to their image being used in a reportbroadcast in which they appear carrying out their duties. Although they had agreed to being filmed and their image was broadcast without being blurred, they nevertheless felt that their privacy had been invaded and deplored the fact that their names and rank had been divulged, since they had not given any authorisation in that respect. The police therefore had the television channel, the director of programming, and the programme’s production company summoned with a view to claiming reparation of the prejudice they had suffered.

In rejecting their claims, the court of appeal in Aix-en-Provence had noted that since the production company had been authorised to broadcast the images of the police members, it was justified in believing tacitly that it was also authorised to divulge their names and rank. The court held that in this context and by this sole fact their privacy had not been infringed, explaining that the public revelation of their profession was necessarily and fully the result of the mere broadcasting of their image, with such revelation being in itself augmented by revelation of their names and ranks, even if one or other of these revelations could have led to different reactions on the part of viewers. The police officers therefore appealed against the court’s decision. The Court of Cassation found that “the agreement given by a person for the broadcasting of his/her image cannot be deemed to constitute agreement to the divulgence of his/her name and rank”. The Court of Cassation therefore overturned and cancelled the appeal judgment, under Article 1134 of the Civil Code (“Lawfully formed agreements are binding on those who have entered into them (..) They must be performed in good faith”). In doing so, the Court of Cassation requires courts dealing with the merits of such cases, and the parties involved, to apply a very strict interpretation of the authorisations given by both individuals and professionals regarding the exploitation, particularly by audiovisual media, of their image. Authorisation to broadcast a person’s image therefore did not constitute an authorisation to divulge other elements of his/her private or even professional life.

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Cour de cassation (1re ch. civile), 4 novembre 2011 - Patrick X. et a. c/ TF1 et a.

Court of Cassation (1st civil chamber), 4 November 2011 - Patrick X et al. v TF1 et al.

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