[FR] Application for Film and Trailer to be Banned

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On 13 April 2012 the regional court in Paris delivered a judgment under the urgent procedure in a case concerning the comedian Dieudonné. A video entitled *Dieudonné l'antisémite - Les camps de concentration* (Dieudonné the anti-Semite - the concentration camps), produced and directed by Dieudonné, which could be viewed on the YouTube site, promoted the film *L'Antisémite* that was to go on sale the following month on the Internet. The disputed sequence, used for the trailer and shown at the start of the film, shows the arrival of an American officer, played by the comedian, discovering a concentration camp in 1945 as he is shown round by a former Jewish prisoner, who explains to him more particularly how the gas chamber works.

Claiming that this on-line material and the showing of the film constituted a number of infringements of the Act of 29 July 1881 (revisionism, encouragement to hatred, and racial insult), the international league against racism and anti-Semitism (*Ligue Internationale Contre le Racisme and l'Antisémitisme* - LICRA) appealed to the courts under the urgent procedure for the withdrawal of the video and a ban on the film. The defendants maintained that the disputed video was no longer on-line, and that the film was available only to subscribers to the defendant's official Internet site. They claimed that the actor, an extremely well-known comedian, who was also the film's director, was entitled to make use of parody, exaggeration and a certain form of excessiveness in order to raise a laugh. They held that the film was covered by the entitlement to freedom of expression and could not be banned in any way.

In its order under the urgent procedure, the court recalled that the measures it was being called on to order, i.e., the withdrawal of a video and a ban on showing a film, counted by their very nature among those measures most radically contrary to freedom of expression. They could therefore only be ordered in extremely serious cases and if there were serious elements that demonstrated the existence of the manifest danger of irreparably infringing the rights of any third party.

The court held that in the present case, while most of the images and speech might be considered particularly shocking and provocative, it was not actually proven, by such evidence as was required under the urgent (civil) procedure, that they did indeed constitute an infringement of the 1881 Act as claimed. Only violations of the Act that could be classified as a "manifestly unlawful

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disturbance" justified the intervention of the courts under the urgent procedure. The judge also recalled that the court was not required to comment on the good or bad taste of what was presented as comedy. He felt that, although it was insidious and particularly outrageous, the sequence was in no way presented as a scientific or otherwise serious statement and no-one could be in any doubt as to the parody involved. Thus the limits of freedom of expression had not been exceeded to such an extent that it was necessary to order a ban under the urgent procedure. It was for the LICRA, if it wished to do so, to apply to the ordinary courts for deliberation on the infringements invoked.

TGI de Paris (ord. réf.), 13 avril 2012 - Licra c. Dieudonné M'Bala M'Bala, Les productions de la plume et a.

Regional court of Paris (urgent procedure), 13 April 2012 - LICRA v. Dieudonné M'Bala M'Bala, Les productions de la plume, et al.

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