[FR] Collective Agreement for the Cinema Industry - Partial Suspension of Extension Order

IRIS 2013-9:1/15

Amélie Blocman
Légipresse

On 6 September 2013, the Conseil d'Etat, deliberating under the urgent procedure, partly suspended implementation of the order issued by the Ministry of Labour on 1 July that extended the national collective agreement for the cinema industry signed in January 2012 by the unions of employees and the association of independent producers (Association des Producteurs Indépendants - API, whose members are Gaumont, Pathé, UGC, and MK2). According to the decree, the agreement, which determines the remuneration to be paid to workers and technicians in the cinema industry (feature films and publicity films), was to be extended to the entire profession on 1 October 2013 (see IRIS 2013-7/12). Before that date, the impact of the collective agreement for comparatively fragile film productions was to be measured more accurately, and details in regard to applying the "waiver clause" were to be worked out. The appendix to the agreement makes provision for a five-year transition period and, under certain conditions, for producers of full-length fiction films with a budget of less than EUR 2.5 million and documentaries of less than EUR 1.5 million to benefit from a waiver allowing salaries reduced by 10-50%, depending on the type of job, within a limit of 20% of the annual total for their films. A number of associations and unions of film producers have however called for the extension decree to be cancelled, and have appealed to the Conseil d'Etat sitting in urgent matters to suspend enforcement provisionally.

The applicants in the proceedings claimed that the collective agreement had not been signed by a representative organisation, contrary to the requirements of Article L. 2261-19 of the Employment Code. The Conseil d'Etat noted that the disputed agreement had been signed by just one employers' organisation, namely the API, whose membership consists of four production companies that in recent years have been responsible for producing no more than about 1% of all French-initiative films and as a result represent only about 5% of the sector's employees. The court, under the urgent procedure, concluded that there was serious doubt as to the legality of the disputed decree with regard to the condition of representation that was required in order to extend a collective agreement. The applicants also claimed that the compulsory application of the collective agreement would have the effect of hiking-up the cost of film production, posing an immediate threat to the production of a good number of films, particularly those with an overall budget that was closely related to the total payroll figure. The Court noted on the one hand that there was provision in the collective

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agreement itself for a waiver mechanism in favour of low-budget films (those with a budget of less than EUR 2.5 million, or EUR 1.5 million for short films and documentaries), but on the other that the waiver arrangement, which provided for a joint commission to examine applications to apply the waiver, had not been set up by 1 October 2013. The condition of urgency was therefore deemed to be met, in view of the financial impact of the collective agreement on the production of low-budget films. The Conseil d'Etat judge sitting in urgent matters therefore suspended performance of the decree issued by the Ministry of Labour extending the collective agreement in as much as it makes the agreement compulsory for all film productions falling within the scope of the waiver arrangement, until such time as the arrangement provided for has actually been set up. The collective agreement will therefore be applicable from 1 October 2013 to all films with a budget of more than EUR 2.5 million. The Ministers for Culture and Labour have called for all the social partners to continue negotiating in order to conclude, before 1 October 2013, the necessary amendment, pending the final outcome of the main proceedings brought by the non-signatory parties.

Conseil d'Etat (ord. réf.), 6 septembre 2013 - Association des producteurs de cinéma et a.

http://www.conseil-etat.fr/fr/selection-de-decisions-du-conseil-d-etat/ordonnance-6-septembre-2013-association-des-producteurs-de-cinema-et-autres.html

Conseil d'Etat (decision under the urgent procedure), 6 September 2013 - API association of film producers, and others

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