[FR] Withdrawal of operating licence for film carrying only a ban on showing to under-16s

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Amélie Blocman
Légipresse

In a decision on 1 June 2015, the Conseil d'État upheld an application from an association contesting the screening visa (visa d'exploitation) issued by the Minister for Culture for the horror film "Saw 3D: The Final Chapter", which carried a ban on showing to anyone under the age of 16, whereas the association felt it should not be shown to anyone under the age of 18.

In the case at issue, the Minister for Culture had issued the disputed visa to the film in 2010, and required audiences to be warned in the following terms: "This film includes many particularly realistic, brutal and even savage scenes of torture". The applicant association, believing that the film should have been banned for anyone under the age of 18, was calling for the screening visa to be withdrawn. The administrative court refused the application, as did the administrative court of appeal. The association therefore referred the matter to the Conseil d'État. The decision states the principle according to which "it is for the judges deliberating on the merits of the case, to whom an appeal has been made against the screening visa issued for a work which includes scenes of violence, to consider whether the scenes at issue are or are not characteristic of the existence of scenes of extreme violence as referred to in paragraphs 4 and 5 of Article R. 211-12 of the Cinema and Animated Image Code which require a ban on their being shown to minors". If the court accepts the qualification, it must then consider the way in which the scenes were shot and how they fit into the work in question in order to determine whether the film, in addition to being banned for showing to anyone under 18, should be "X-rated", i.e. placed on the list provided for in Article L. 311-2 of the Cinema Code.

In the case at issue, the administrative court noted that the film includes many scenes that had been shot extremely realistically, repeatedly showing acts of torture and barbarism, and representing in a particularly indulgent fashion the atrocious sufferings, both physical and psychological, of the victims caught in the traps elaborated by a killer, in which they were encouraged to mutilate themselves either to escape death or to save their family and friends. The court found that such scenes, although not characteristic of incitement to violence, represented violence in such a way as to be potentially damaging to minors and therefore justified a ban on showing the film to anyone under the age of 18. It found that the Minister for Culture had committed an error of appreciation by only banning the showing of the film to anyone under the age of 16. The Conseil d'État

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therefore cancelled the Minister’s decision, and she will now have to re-examine the dossier and issue a new - more restrictive - screening visa.

Conseil d’Etat (10e et 9e sous-sect. réunies), 1er juin 2015 - Association Promouvoir

http://www.conseil-etat.fr/Decisions-Avis-Publications/Decisions/Selection-des-decisions-faisant-l-objet-d-une-communication-particuliere/CE-1er-juin-2015-Association-Promouvoir

Conseil d’État (9th and 10th sub-sections combined), 1 June 2015 - the association “Promouvoir”

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