[FR] Contested classification licence for ‘La Vie d'Adèle’: Conseil d’Etat decides

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The Minister for Culture had appealed to the Conseil d'Etat to overturn the decision delivered by the Administrative Court of Appeal on 8 December 2015 which, in response to an application from a traditionalist Roman Catholic association, cancelled the classification licence that included a ban on the film being shown to anyone under 12 years old and required the warning “Contains numerous realistic sex scenes likely to be disturbing to young audiences”. The warning and the ban had been issued by the French Classification Board in July 2013 for the film ‘La vie d'Adèle: Chapitres 1 et 2’ (English title: ‘Blue is the Warmest Colour’), which won the Palme d’Or at the Cannes Film Festival in 2013.

In its 28 September 2016 decision, the Conseil d'Etat recalled that, after considering the theme of the film, the Administrative Court of Appeal in Paris had found that it contained a number of scenes in which sexual acts were presented in a realistic fashion and that the conditions under which one of these scenes in particular had been filmed made it impossible for anyone watching, particularly those in the younger age bracket, to distance themselves from what they were being shown. The Court of Appeal had deduced that the effects of the film on the sensitivities of young audiences meant that the film should be even further restricted.

According to Article R. 211-12 (4) of the Cinema Code, “The [Classification] Board may also propose that the Minister with responsibility for Culture order a ban on showing works to minors under 18 years of age if they include scenes of non-simulated sex or extreme violence (...)”. In the case at issue, the Conseil d’Etat found that the elements submitted indicated that, although the sex scenes at issue were simulated and were undeniably very realistic, they were not at all violent, nor were they filmed with the intention of being degrading. The scenes formed a coherent part of the overall narrative thread of the work, which in all lasted nearly three hours, the aim of which was to depict the passionate nature of a love affair between two young women. The Minister for Culture had also attached a warning to the licence granted, intended to inform young audiences and their parents. In the circumstances, the Conseil d’Etat, as the highest administrative jurisdiction in the country, found that the Administrative Court of Appeal had been wrong in qualifying the facts of the case on the basis of the film being likely to be disturbing for young audiences, and consequently deducing that the Minister had committed an error of appreciation in deciding to issue a

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classification licence that included a ban on showing the film to minors under 12 years old. The Minister was therefore founded in requesting the cancellation of the decision at issue. The case was referred to the Administrative Court of Paris.

Conseil d'Etat, (10e et 9e sous-sect.réunies), 28 septembre 2016, Ministère de la Culture c/ Association Promouvoir et a.

Conseil d'Etat, (10th and 9th sub-sections together), 28 September 2016, Ministry of Culture v. the association 'Promouvoir' and others

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