[FR] Minister for Culture legally able to issue licence preventing the film ‘Bang Gang’ being shown to under 12s

IRIS 2018-4:1/19

Amélie Blocman
Légipresse

On 26 January 2018, the Conseil d’Etat delivered a decision that adds another stone to the edifice of jurisprudence on the issue of certificates for films likely to be harmful to young people or undermine respect for human dignity. In the case at issue, two associations had called on the courts to annul the Minister for Culture’s decision granting a certificate to the film “Bang Gang (A Modern Love Story)” that prevented its showing to anyone under 12 years of age without warning, on the grounds that she had exceeded her powers. The film, screened in cinemas since January, depicts a 16-year-old girl who, wanting to attract the attention of one particular boy, sets up a collective game during which her gang of friends will discover, test, and push back the limits of their sexuality. First the administrative tribunal and then the court of appeal rejected the applications brought by the complainant associations, which then appealed to the Conseil d’Etat.

The Conseil d’Etat reiterated that it was for the administrative court to which appeals were made in respect of the exceeding of powers with regard to the classification measures provided for in Article R. 211-12 of the Cinema and Animated Image Code (Code du Cinéma and de l’Image Animée) to assess the legality of the classification measure adopted by the Minister in respect of the film taken as a whole. It noted that, in justifying their decision, the judges of the appeal court had taken into account the absence of any incitement for young viewers to emulate the disputed scenes in assessing whether or not the film was such as to infringe the objectives of protecting young people and respect for human dignity (particularly by encroaching on the sensitivity of a young audience), and that their decision had not been flawed by virtue of any legal error. The Conseil d’Etat also noted that although the film included several scenes during which the pupils who are the heroes of the film indulge in group sex under the effect of alcohol and drugs, these scenes - which were simulated - were not in any realistic manner, but rather in a distant and indirect manner. They also form a coherent part of the overall storyline of the work, the aim of which was to relate, without being judgmental, the idleness of a group of young people, the practices in which they decide to over-indulge, and all the consequences thereof. Thus, the administrative court had been correct in its assessment of the facts of the case and in finding that the Minister for Culture had been legally justified in awarding the film “Bang Gang” a licence that included a ban on showing it to anyone under

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12 years of age. The appeal lodged by the complainant associations was rejected.

Conseil d'Etat, (10e et 9e ch. réunies), 26 janvier 2018, Association Promouvoir et a.

Conseil d'Etat, (10th and 9th chambers combined), 26 January 2018, Association "Promouvoir" and others

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