[FR] Application for interim suspension of showing of the film “Une Intime Conviction”

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Following the first screening in cinema theatres on 6 February 2019 of the film “Une Intime Conviction”, which recounts the appeal lodged by a law professor suspected of having killed his wife and the work of his defence lawyers to obtain his acquittal - in March 2010 - , the wife’s lover had the production company summoned under the urgent procedure in an effort to have showing of the film stopped on the grounds of invasion of his privacy.

In its decision of 22 February, the court began by stating that, since the application sought to prevent the showing of an intellectual work, the applicant needed to demonstrate that there had been a manifest invasion of his privacy so serious as to be intolerable and impossible to remedy in any other way. This was a particularly serious measure that should be reserved for exceptional cases, since it was utterly contrary to freedom of expression. The judge went on to observe that the film at issue referred to the applicant - played by an actor in the film - on a number of occasions, using his family name and his first name. The soundtrack also included the content of extracts from lawfully made recordings of telephone conversations between the applicant and various acquaintances. In this respect, the judge said that the mere act of reproducing those reconstituted extracts did not in itself constitute an invasion of privacy. He added that the case had been widely covered in the media, and that the content of the recordings was consequently common knowledge. Analysing the content of the conversations that had been made public, the judge noted that certain passages referred to the applicant’s feelings of grief and his reaction to the death of his lover. Nevertheless, some of those passages had been played back - and therefore made public - during the court case, while others of a more personal nature had not been included in the film.

The judge also noted that the use of the applicant’s family and first names (which by their nature were not exclusive to his private life) in a cinematographic work covering facts that were real, public and known - that is to say, legal developments following a death - and in respect of which the applicant’s identity and actions had already been mentioned in the media, did not constitute an invasion of privacy. There had been no obligation incumbent on the defendants to request the applicant’s authorisation to use his name in the film. Accordingly, the applicant’s claims were totally rejected.

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Lastly, the judge stated that the themes of the film - the functioning of the judicial system, the procedure followed in respect of a case before the criminal courts, the primordial importance of doubt in criminal proceedings, and the way a legal investigation may be constructed in order to “produce” a guilty party - were all subjects of general interest in a democratic society.

TGI Paris (ord. réf.), 22 février 2019, Olivier D. c/ SARL Delante Films et a.

Regional court of Paris (urgent proceedings), 22 February 2019, Olivier D. v SARL Delante Films and others

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