[FR] Urgent application for release of François Ozon's latest film, "Grâce à Dieu" to be delayed

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On 31 January 2019, a Catholic priest suspected of abusing boy scouts lodged an application for emergency proceedings to be initiated against the film production company responsible for the film "Grâce à Dieu" ("By the Grace of God"), which was due to be released on 20 February 2019. Copies had already been delivered to 307 cinemas and a huge publicity campaign costing EUR 1 million had already been launched. Directed by François Ozon, the film depicts the battle fought by victims of child abuse allegedly carried out by the priest, whose real name is used in the film. Claiming a violation of his privacy and citing the presumption of an accused's innocence until proven guilty, the priest demanded that the release of the film be delayed pending a final court decision on whether he was guilty of the charges against him. The investigation phase of the criminal proceedings against the priest was due to be completed approximately at the time of the film's release.

On 18 February 2019, two days before the film's national release, the urgent-applications judge issued his decision. Regarding the alleged violations of the plaintiff's privacy, the judge noted that the case against him had received a huge level of media coverage, both in the press and through the publication of books. The plaintiff had therefore failed to show how the reference to a criminal case that had already been widely publicised (and had, moreover, prompted a related court case in which the Archbishop of Lyon had been accused of turning a blind eye to the priest's offending) was likely to reveal facts that were not already in the public domain.

Regarding the undermining of the presumption of innocence, the judge noted that the first condition for the application of Article 9-1 of the Civil Code had been met - i.e. the plaintiff was being investigated in a pending criminal procedure. He then noted that in view of the fact that the film depicted three people as victims of the plaintiff, it was bound to refer to the existence of crimes for which he was being investigated. Given the circumstances, the reality of those crimes appeared indisputable, although the film was not a documentary about the criminal case itself. The fact that the plaintiff had admitted committing the offences in question and had requested a pardon was irrelevant. However, it was noted that the film contained several written messages: the first, at the start of the film, stated that "this film is fictional [but] based on real facts", while that shown at the end of the

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film stated that “Father P. is to be presumed innocent until his trial”. Viewers were therefore informed that the plaintiff should be presumed innocent - a measure that fulfilled the purpose of Article 9-1 of the Civil Code, under which nobody should be portrayed as guilty before actually being found guilty.

The judge also took into account the fact that, on the day the film was due for release, the date of the priest’s trial had not been fixed and was not likely to be in the near future. In such circumstances, the release of the film on that date was unlikely to seriously harm the fairness of the trial or to interfere with the proper conduct of the criminal proceedings. It would have been different if the film’s release had coincided with the court hearing. Lastly, the judge stressed that the requested measures should be strictly necessary and proportionate. It appeared that the request to delay the release of the film until the conclusion of the priest’s trial could result in it not being released for several years. This would cause a serious and disproportionate violation of the freedom of expression and of creative freedom, meaning that the film could not be exploited.

Lastly, the request for the plaintiff’s name to be removed from the film was also deemed disproportionate. This measure on its own was unlikely to prevent the priest being identified. The request for a message to be inserted before the start of the film also appeared unnecessary and disproportionate in view of the written messages already included.

On 19 February, a court in Lyon also rejected a request from a former diocese volunteer to have her surname removed from the film. The judges considered that neither her privacy nor the presumption of innocence had been violated.

TGI de Paris (ord. réf.), 18 février 2019 - B. P. c/ SAS Mandarin Production et a.

Paris regional court (interim order), 18 February 2019, B.P. v SAS Mandarin Production et al.

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