[FR] Court of Cassation confirms rejection of request to delay release of film *Grâce à Dieu*

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A judgment issued on 6 January 2021 by the 1st civil chamber of the Court of Cassation put an end to the dispute between the production company responsible for the film *Grâce à Dieu* (*By the Grace of God*) and the main character portrayed in the film, Father Preynat, who was indicted in 2016 on suspicion of sexually abusing minors between 1986 and 1991 while he was a priest in the diocese of Lyons. The film tells the story, in a fictional format, of three of the priest's alleged victims. In January 2019, the priest lodged an application for emergency proceedings, demanding that the film's release the following month be delayed pending a final court decision on his guilt. He based his request on alleged violations of his privacy and of the presumption of innocence. The first court and then the appeal court both rejected his demands.

In its ruling, the appeal court weighed up the right to be presumed innocent and the right to freedom of expression. It noted that this balancing process should take particular account of the content of the disputed work, its contribution to a debate of public interest, its potential influence on the criminal proceedings and the proportionality of the requested measure, as the European Court of Human Rights had stated in its judgment in *Bédat v. Switzerland*. It also held that the film *Grâce à Dieu* was an intellectual work rather than a documentary on the priest's forthcoming trial and concerned the freedom of speech of victims of child abuse in the Catholic church, which was an issue of public interest.

Finally, the court pointed out that the film started with a written message stating that "This film is fictional, based on real facts", informing the public that it was an intellectual work, and concluded with another, stating that "Father X... should be presumed innocent". All viewers would therefore be informed that the priest should be presumed innocent when the film was released. Furthermore, the story told in the film was already in the public domain. Finally, delaying 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. The priest lodged an appeal against the appeal court's ruling with the Court of Cassation.

The Court of Cassation ruled that the appeal court had correctly weighed up the interests involved and assessed the impact that the film and the warnings issued

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to its viewers might have on the criminal proceedings, and did not think the priest would have been presumed guilty before his trial. The appeal court had therefore been right to rule that delaying the film's release until the conclusion of the trial would be disproportionate to the interests at stake.

Cour de cassation, 1re chambre civile, 6 janvier 2021, n° 19-21718

https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/26_6_46230.html

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