[FR] Satirical song did not cross the boundary of freedom of expression

IRIS 2021-6:1/6

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During the France Inter programme “Par Jupiter!”, in response to a Brazilian court’s decision to ban a film portraying Jesus Christ as a homosexual, a singer performed a satirical song entitled “La chanson de Frédéric F...” in which Jesus Christ was described as a homosexual in obscene and vulgar terms.

The political think tank *Fondation de service politique* asked the *Conseil d'Etat* (Council of State) to annul the decision of the *Conseil Supérieur de l'Audiovisuel* (French audiovisual regulatory body – CSA) of 26 February 2020 in which the CSA refused to open sanction proceedings against Radio France pursuant to Articles 48-1 *et seq*. of the Law of 30 September 1986.

The *Conseil d’Etat* held that the CSA is responsible for ensuring that, in accordance with Articles 3-1 and 43-11 of the Law of 30 September 1986, the programmes made available to the public by Radio France contribute in particular to social cohesion and the fight against discrimination. It is also responsible for guaranteeing respect for the principle of freedom of communication of thoughts and opinions, which is enshrined and protected in the constitutional provisions of the 1789 Declaration of the Rights of Man and of the Citizen and referred to in Article 1 of the Law of 30 September 1986.

In the *Conseil d’Etat’s* view, the evidence suggested that the song in question, which was designed to criticise discriminatory attitudes towards homosexuals and did not promote discrimination against a specific group of people on religious grounds, had been clearly satirical in nature. It thought that, despite the outrageous tone of certain parts of the song, for which the singer and Radio France had later apologised, the broadcast could not be regarded as having exceeded the boundaries of freedom of expression or infringed the national broadcaster’s legal obligation to contribute to social cohesion and the fight against discrimination in a way that could justify use of the CSA’s powers to issue a formal notice or sanction pursuant to Articles 48-1 *et seq*. of the Law of 30 September 1986.

Council of State decision of 6 May 2021, no. 440091, Fondation de service publique

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