[FR] Highly degraded local film exploitation situation can justify CNC's refusal to approve open-air film screenings

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In a decision of 30 June 2021, the president of the *Centre national du cinéma et de l'image animée* (National Centre for Cinema and the Moving Image – CNC) refused to authorise nine open-air film screenings that were due to be held in the municipality of Garenne-Colombes every Saturday in July and August. The municipal authority then asked the administrative court's urgent applications judge, on the basis of Article L. 521-2 of the Code of Administrative Justice, to stay the execution of the CNC's decision and order the CNC to allow it to organise open-air screenings in accordance with Article L. 214-6 of the Code of Cinema and the Moving Image. Under these provisions, permission to organise open-air and/or free film screenings, other than those organised by cinema operators, must be granted by the CNC president "taking into account the date of issue of the film screening certificate, the place and number of screenings, the social and cultural benefits of the screenings and the local film exploitation situation."

The municipal authority therefore asked the *Conseil d'État* (Council of State) to annul the order under which the urgent appeals judge had rejected its request.

The *Conseil d'État* noted, firstly, that the investigation had established that cinemas located around the Garenne-Colombe municipality, most of which were independent, had seen their turnover fall significantly in 2020 and since the start of 2021 as a result of the health restrictions. While the Garenne-Colombes municipal authority claimed that the organisation of nine free open-air screenings would not disrupt the economic balance of these cinemas, and concerned old films that they were no longer showing, the initial judge had correctly considered that their sharp reduction in turnover had created a highly degraded local exploitation situation, which justified the decision not to grant the requested permission in accordance with Article L. 214-6 of the Code of Cinema and the Moving Image. The municipal authority had therefore been wrong to dispute the urgent applications judge's view that the disputed decision did not constitute a serious and manifestly unlawful breach of the freedom to access cultural works.

Secondly, the fact that other municipal authorities, where the situation was different, had organised open-air film screenings did not mean that the disputed decision, which had been taken under an authorisation process laid down by law,

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constituted a serious and manifestly unlawful breach of the principle of free administration of local authorities.

The *Conseil d'État* concluded that the municipal authority of Garenne-Colombes had no grounds to dispute the decision of the Cergy-Pontoise administrative court's urgent applications judge to refuse its request.

Conseil d'État (ord. réf.), 16 juillet 2021, n° 454526, Commune de la Garenne-Colombes

http://www.conseil-etat.fr/fr/arianeweb/CE/decision/2021-07-16/454526

Conseil d'Etat, 16 July 2021, no. 454526, Garenne-Colombes municipal authority

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