[FR] *Conseil d'État* rejects RMC Découverte appeal against CSA's refusal to classify programmes as documentaries

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On 3 July 2012, the company RMC Découverte, which operates the terrestrial television channel of the same name, signed an agreement with the *Conseil supérieur de l'audiovisuel* (the French audiovisual regulator – CSA), Article 3-1-1 of which requires it to ensure that "documentaries make up at least 75% of total airtime each year and cover a wide variety of topics." In decisions of 11 July 2018, 17 June 2019 and 20 May 2020, the CSA refused to classify 16, 15 and 6 programmes broadcast by the channel as "documentaries", as defined in the agreement. RMC Découverte asked the *Conseil d'État* (Council of State) to overturn these 37 refusals.

In order to determine whether the various programmes concerned could be classified as documentaries within the meaning of the aforementioned Article 3-1-1, the CSA examined each of them individually, taking into account the existence of an author's viewpoint, the dissemination of knowledge to the viewer, the portrayal of facts or situations that existed before the programme was made, the absence – apart from any reconstruction – of artificially staged events and whether they had received documentary film aid from the *Centre national du cinéma et de l'image animée* (National Centre for Cinema and the Moving Image – CNC). The *Conseil d'État* decided that, based on these criteria, the CSA had not made any error of law.

The *Conseil d'État* noted that, in this case, the disputed programmes either invited viewers to follow individuals as they carried out their profession or hobby, such as repairing classic cars, building cabins or destroying pests, or showed people in situations of adventure, travel or survival. The CSA had correctly applied Article 3-1-1 by refusing to classify the programmes as documentaries on the grounds that they used narrative devices and filming techniques that were typical of entertainment programmes, they were not designed to extend viewers' knowledge because they did not provide information about their subject-matter in a substantial and continuous manner, and they depicted real-life situations in an artificial way by using dramatisation, elements of surprise and heightening of emotions. The channel therefore had no grounds to request the annulment of the contested decisions.

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