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French Trade Union Tests Boundaries of “Respect for the Republic”

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One of the requirements which must be satisfied before a trade union can operate in France is that its constitution and its actions should “respect the values of the French Republic”.

In *Société Global Facility Services v. Snapmrasa,* an employer argued that a trade union seeking recognition in its workplace could not validly appoint a union representative there because the union itself did not respect those values. In particular, its constitution referred to the advancement of the “class struggle” and to the “elimination of capitalist exploitation”, pretty strong stuff for modern-day France.

What counts as not respecting the values of the French Republic is unclear at law. Part of it relates to the union’s stated purpose – anything other than “*defending the rights and moral material means, both individual and collective, of its members*” is outside what the legislators had in mind for trade unions. It is apparent also that the union should not set out to infringe principles of freedom of opinion or of faith, of non-discrimination, mutual tolerance or anti-extremism. Values of the Republic derived from the 1958 Constitution (the basis of the current Fifth Republic) also include freedom, equality, resistance to oppression, and democracy.

These are widely construed. In 2010 the French Supreme Court upheld a first instance decision that references in a union’s constitution to workers taking “direct action” and even to the “abolition of the State” did not place it outside the values of the Republic. “Direct action” did not mean an encouragement to violence, apparently, merely the employees’ rights to act independently of political parties and the State. As for abolishing it altogether, that was just a reference to the sovereignty of the French people not being subordinated to any specific form of organisation of political power.

In the circumstances it was ultimately not a surprise that the employer in *Snapmrasa* failed to have the union appointment declared invalid on those grounds, however inflammatory and unnecessary was the language the union had used in its constitution.

Against that, do note a 1998 decision where the French Supreme Court knocked out a trade union found to be entirely the tool of a political party based on objectives of race and ethnic discrimination, even though its written constitution made no mention of such discrimination at all.

Therefore in the very few cases where this argument might be thought worth running, the employer should first look beyond the bald text of the union’s constitution and assess its behaviours also.

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