

Canadian Artists and Producers
Professional Relations Tribunal



Tribunal canadien des relations
professionnelles artistes-producteurs

CANADA

Ottawa, March 10, 1998

File No. 97-16/21-E

Decision No. 025

**IN THE MATTER OF A REQUEST FOR REVIEW FILED JOINTLY BY
THE UNION DES ARTISTES AND THE ASSOCIATION DES
PROFESSIONNELS DES ARTS DE LA SCÈNE DU QUÉBEC**

**Decision of the Canadian Artists and Producers Professional Relations
Tribunal:**

The request is granted.

Place of hearing: Ottawa, Ontario

Date of hearing: March 4, 1998

Quorum: André Fortier, Presiding member
Robert Bouchard, Member
David P. Silcox, Member

Lafortune, Leduc; Louise Cadieux for the Union des Artistes.
Sauvé et Roy, Avocat-e-s; Serge Lavergne for the Association des professionnels
des arts de la scène du Québec.

REASONS FOR DECISION

97-16/21-E: In the matter of a request for review filed jointly by the Union des Artistes and the Association des professionnels des arts de la scène du Québec

BACKGROUND

[1] This decision concerns a request for review filed on February 20, 1998 under subsection 20(1) of the *Status of the Artist Act* (S.C. 1992, c. 33, hereinafter the “Act”). The request was made jointly by the Union des Artistes (“UDA”) and the Association des professionnels des arts de la scène du Québec (“APASQ”).

[2] In their request, the applicants ask the Canadian Artists and Producers Professional Relations Tribunal (the “Tribunal”) to amend the wording of paragraph [112] of Decision No. 024 rendered on December 30, 1997. This decision concerned three files heard jointly: the part of the UDA’s application for certification covering directors (metteurs en scène) and choreographers; the part of APASQ’s application for certification covering directors (metteurs en scène); and the application for certification of the Association des réalisateurs et réalisatrices du Québec (“ARRQ”). It should be noted that the request for review does not in any way affect the certification granted to ARRQ.

[3] In Decision No. 024, the Tribunal defined a bargaining sector for metteurs en scène, but did not certify an association to represent them. Instead, it ordered that a representation vote be conducted among those UDA and APASQ members who are metteurs en scène, in order to determine which association should represent them. The relevant part of the decision reads as follows:

[112] The Tribunal therefore orders that a representation vote be conducted among the *members* of the two applicants who practise the profession of metteur en scène. An order setting forth the procedures for this representation vote will be issued with these Reasons. (our italics)

[4] It should be noted that in all the cases it has heard to date, the representativeness of an applicant for certification has never been contested and the Tribunal has been able to decide this issue by relying on membership lists. In the instant case, the Tribunal concluded that it could not use membership lists as proof of representativeness.

[5] Because it was in the parties’ interests to do so, the Tribunal decided to deal with the request for review on the basis of written representations and therefore it did not hold a public hearing in this matter.

ISSUE

Should the Tribunal amend its decision and allow all metteurs en scène in the sector to participate in the representation vote?

[6] The UDA and APASQ are asking the Tribunal to revise the wording of paragraph [112] of Decision No. 024 so that all metteurs en scène in the sector, and not just the members of the applicant associations, can participate in the representation vote.

[7] Subsection 20(1) of the *Act* provides as follows: “The Tribunal may uphold, rescind or *amend* any determination or order made by it, and may rehear any application before making a decision” (our italics). It is therefore clear that the Tribunal has the necessary legislative authority to amend one of its decisions.

[8] According to the applicants, the *Act* provides that a representation vote should be taken among the *artists affected by the proceeding* and not only among their members. In support of their request, the parties cite subparagraph 17(h)(i) of the *Act* which reads as follows:

The Tribunal may, in relation to any proceeding before it,
(...)

(h) order, at any time before the conclusion of the proceeding, that

(i) a representation vote or an additional representation vote be taken among artists affected by the proceeding, whether or not a representation vote is provided for elsewhere in this Part, in any case where the Tribunal considers that the vote would assist it to decide any question that has arisen or is likely to arise in the proceeding, (...)

[9] The applicants point out that the *Act* provides that artists are entitled to freedom of association. Section 8 provides: “An artist is free to join an artists’ association and to participate in its formation, activities and administration.”

[10] Thirdly, the applicants submit that under subsection 27(2) of the *Act*, all metteurs en scène have an interest in expressing themselves on the issue of the representativeness of an association.

[11] When it ordered that a representation vote be held, the Tribunal had in mind a vote among the applicant associations’ members because it felt that the majority of the artists affected by the proceeding were represented by one or the other of the associations.

[12] The Tribunal believes that it is important to keep in mind the purpose of the *Act*. Section 7 of the *Act* provides that the purpose of Part II is as follows:

(...) to establish a framework to govern professional relations between artists and producers that *guarantees their freedom of association*, recognizes the importance of their respective contributions to the cultural life of Canada and ensures the protection of their rights. (our italics)

[13] Although the Tribunal believes that the number of metteurs en scène who are not members of one or the other of the applicant associations is relatively small, it concludes that in order to ensure that all metteurs en scène affected by Decision No. 024 are able to exercise their right to freedom of association, they should be able to participate in the representation vote.

DECISION

[14] For all these reasons, the Tribunal grants the request for review filed by the UDA and APASQ and decides that paragraphs [112] and [144] of decision No. 024, rendered on December 30, 1997, should henceforth read as follows:

[112] The Tribunal therefore orders that a representation voted be conducted among **artists affected by the proceeding** who practise the profession of metteur en scène. An order setting forth the procedures for this representation vote will be issued with these Reasons.

[144] (...) Orders that a representation vote be conducted among **artists affected by the proceeding** who practise the profession of metteur en scène. An order setting forth the procedures for this representation vote will be issued with these Reasons.
(...)

A new order setting forth the procedures for the representation vote will be issued by the Tribunal.

Ottawa, March 10, 1998

“André Fortier”
Presiding Member

“Robert Bouchard”
Member

“David P. Silcox”
Member