[FR] Misreading of a Convention for the Use of Sound Recordings and Incitement to Contravene the Agreement.

IRIS 1995-6:1/16

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In a decision (arrêt) of 11 April 1995, the Court of Cassation declared that the mandatory agent, responsible for drawing up a contract between a performers' association and certain television channels for the radio and television broadcasting of sound recordings, is held personally liable (liability in tortresponsabilité délictuelle) for any prejudice caused to the third party during the course of his or her mission. In this case in point, the fault committed for which the agent is held liable (faute détachable), which can equally well be a failure to act as much as a positive but mistaken action, was in the misreading of the contract, involving restrictions on play-back and accompanying sound tracks. By failing to warn the television companies against the illegal use of the tracks, the mandatory agent is inciting the companies to infringe the agreement and acting with culpable negligence in the performance of his mandate, the length of which was not linked to the duration of the agreement relating to the use of the tracks.

Arret n° 91-21.137 n° 92-11.086 P de la Cour de Cassation du 11 mai 1995, 1re Chambre Civile.

Decision n° 91-21.137 n° 92-11.086 P of the Court of Cassation of 11 May 1995, 1st Civil Court.

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