# [FR] Decision by the Court of Cassation on the Application of the Short Prescription Period for On-line Press Offences

**IRIS 2001-4:1/28**

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Following two decisions that aroused a great deal of debate, in which judges found that on-line press offences constituted a continuous offence (IRIS 2001-1: 13), the court of cassation has at last stated its position on the much-discussed matter of the application of the threemonth prescription of Article 65 of the 1881 Act to this type of offence. "Press" offences (such as defamation and slander) lapse a full three months after either the date on which they are committed or the date on which the public becomes aware of them, and some judges had felt that the specific nature of the Internet transformed the act of publication into a continuous act.

In the case brought before the court of cassation, a civil servant had had the author of an article she considered defamatory, and which had been posted on an Internet site, summoned to appear in court. The court of appeal in Papeete had declared the public action and the civil action out of time, on the grounds that it was by no means impossible that the disputed text had been posted more than three months before the writ of summons was served. The court of cassation held that the court of appeal had reached its decision on insufficient, hypothetical grounds that did not establish that the article in question had been "made available to Internet users (...) more than three months before the date of the summons, ie outside the period referred to in Article 65 of the Act of 29 July 1881".

It has to be said that the court of cassation only implicitly acknowledges the application in this case of the three-month prescription for on-line press offences. The court of cassation was in fact being called upon primarily to determine the matter of the date on which the disputed text first appeared on-line. Nevertheless, the solution seems to have been reached, and it is indeed "from the day on which [a text is] made available to Internet users" that the short prescription period should be calculated. This decision could therefore put an end to the attempts of certain judges to "revolutionise" the matter. Nevertheless, the question of authenticating the date on which an item first appears on the Internet remains unresolved.

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## *Cour de cassation (chambre criminelle), 30 janvier 2001 - Annie Wilbert, dite Rousseau*

*Court of cassation, criminal chamber, 30 January 2001 - Annie Wilbert, known as "Rousseau"*

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