[FR] Judgment of the Court of Cassation on an author's claims for compensation where his share of the proceeds is not determined in accordance with the provisions of Art. L.131-4 of the French Copyright Act

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On 9 January 1996 the Court of Cassation delivered its judgment on the appeal by the Masson publishing house against a judgment delivered by the Paris Court of Appeal on 7 July 1992.

According to the judgment of the Court of Cassation, it follows from Art. L.131-4 that the author's share of the proceeds of a publication must be calculated exclusively on the basis of sale price. This gives the provision a "caractère d'ordre public", ie the provision is therefore mandatory and cannot be departed from by agreement between the parties.

The Court of Cassation concluded from this that an author could claim compensation for damages in respect of contravention of this legally guaranteed entitlement.

In the case in hand, the parties had agreed that the author's share would be calculated not on gross sales revenue but the publishing house's receipts. This agreement, as the Court of Cassation has now decided definitively, contravenes Art. L.131-4 of the French Copyright Act and is therefore void. The claim to damages on the part of the author in the initial proceedings was upheld by the Court of Cassation.

Cour de cassation, 9 janvier 1996, arret N.93, Pastet ./. SA Masson éditeur et a.

Court of Cassation, 9 January 1996, judgment ns 93 P, Pactet v. SA Masson éditeur et al.

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