

## **REGULATIONS ON CERTIFYING AS TRUE COPIES OF DOCUMENTS TO BE ADDED TO AN APPEAL IN CASSATION**

According to established case law of the Court of Cassation, a ground for appeal in cassation invoking the breach of the evidentiary value of a document is not admissible when the document is not reproduced in the contested ruling or in another document which the Court is able to take into account, and which is not added to the appeal, either as an original or as a copy certified as a true copy (of the original or of the copy filed before the judges deciding questions of fact) by the lawyers that represent the parties before the judges deciding questions of fact.

The loyalty and honesty of a lawyer require him to cooperate in certifying as true the document in respect of which the breach of evidentiary value is invoked by the opposing party.

Accordingly the following regulations are adopted, after approval of the Bar Council, at the Court of Cassation:

### Article 1

When a party, as the future appellant in cassation, wishes to invoke a ground for appeal in cassation based on the breach of the evidentiary value of a document that was lawfully filed before the court on the merits, and that party does not possess the originally filed document, but only a copy thereof, the lawyer of that party may ask the lawyer of any party in the case before the court on the merits to certify this copy as a true copy of the original document or of the copy filed before this court, as the case may be.

If counsel for the future appellant in cassation is not in possession of the original document or a copy thereof, he may ask the lawyer of a party in a case before the court on the merits, who is in possession of the original document, to make a copy thereof and certify it as a true copy of the original.

The lawyer receiving the request must provide the document certified as a true copy to the lawyer making the request without delay. He must do so, even if he has not been the counsel of the party involved since the ruling against which an appeal in cassation is considered. He may not make the certification of the document as a true copy subject to the approval of his client or former client.

If the lawyer receiving the request is not or is no longer in possession of the original or a copy of the document, he must immediately inform the lawyer making the request.

When the period for lodging an appeal in cassation is running, the lawyer receiving the request must treat it with particular urgency.

## Article 2

The certification of documents as true copies, as referred to in Article 1, consists of inserting the following wording at the bottom of the copy of the document in question, followed by the lawyer's signature:

"Certified as a true copy of the original document (*or of the copy, as the case may be*) that was filed before (*indicate the court*).

*mr.* ....., lawyer who represents (*name of the party*) before this court.

*mr.* ....., lawyer who represents (*name of the party*) before this court."

## Article 3

Disputes will be settled by the chairman of the Bar Council of the lawyer who must certify the documents as true copies.

## Article 4

These regulations replace the regulations of 12 October 1995 of the Belgian National Bar Council on the obligation of lawyers regarding the certifying as true of copies of documents that are to be added to an appeal in cassation when the breach of the evidentiary value of documents is invoked.

Approved at the general meeting of the Flemish Bar Council of 30.01.2008.

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