

Poland: Derived work, Supreme Court of Poland, I CNP 10/14, 14 November 2014

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The Supreme Court held that it is a matter of fact, not law, whether a work created from fragments of another work is a derivative work (according to Article 2 of the Copyright Act) or another kind of non-independently created work. Therefore this type of issue cannot be debated in an action for determining the lawfulness of the court's judgment. The Supreme Court likewise acknowledged the legality of the appeal court's views with regard to the applicability of Article 78(2) of the Copyright Act, rather than Article 445 §3 of the Civil Code, in cases where damages are sought after the author's death. Although this legal issue is questionable in the Polish literature, the Supreme Court recognised that the appeal court's findings that an author's moral rights do continue after death were convincing, and that there were no legal grounds to regard them as contrary to the proper interpretation of the law.

A [full summary](#) of this case has been published on [Kluwer IP Law](#).