

**PARIS
JUDICIAL
TRIBUNAL**



**INTERIM ORDER
rendered on March 03,
2023**

**N° RG 23/51950 - N°
Portalis
352J-W-B7H-CZDU
Z**

N° : 1/MM

**Summons of:
February 21,
2023**

by **Delphine CHAUCHIS, First Assistant Vice-President** of the Paris Judicial Court, acting by delegation of the President of the Court,

Assisted by **Minas MAKRIS, acting as Registrar.**

APPLICANTS

Mr. Michel THOMAS, known as "Michel HOUELLEBECQ
3 avenue de Choisy
75013 PARIS

represented by Me Angélique BERES, lawyer at the PARIS bar
- #A0457

Ms. Qianyun LI 3
Avenue de Choisy
75013 PARIS

represented by Maïa KANTOR of AARPI Kantor - Le Borgne,
lawyers at the PARIS bar - #D0207

DEFENDANT

Mr. Stefan RUITENBEEK, Huigenbos
25, 1102KA
Amsterdam/NETHERLANDS

represented by Virginie TESNIÈRE of the SELARL CABINET
NOUVELLES, lawyers at the PARIS bar - #P0012

DEBATES

**2 Enforceable copies issued
on:**

At the hearing of March 01, 2023, held in public, presided over by Delphine CHAUCHIS, First Assistant Vice-President, assisted by Minas MAKRIS, acting as Registrar,

We, President,

After hearing counsel for the parties,

Having regard to the order issued on February 17, 2023 authorizing Michel THOMAS, known as HOUELLEBECQ, and Gianyun LI to summon Stefan RUITENBEEK, in accordance with the summary proceedings procedure "*at the indicated time*" provided for in article 485 paragraph 2 of the code of civil procedure, and this for March 1^{er} 2023 before the judge of the Paris judicial court, the summons having to be delivered before February 23, 2023,

Having regard to the summons issued on February 21, 2023 to Stefan RUITENBEEK, at the request of Michel THOMAS dit HOUELLEBECQ and Qianyun LI, in execution of the aforementioned order, on the basis of Articles 9 of the Civil Code, 835 of the Code of Civil Procedure and 8 of the European Convention on Human Rights, on the grounds that the respect due to their private life and their right to their image would be infringed by the broadcasting, on January 23, 2023, on the VIMEO platform and on January 23, 2023, on the YOUTUBE platform of the trailer of a pornographic film entitled "KIRAC 27" directed by Stefan RUITENBEEK, and by which they ask the judge of the summary proceedings:

. About the trailer of the film :

- to order Stefan RUITENBEEK to remove the trailer of the film "KIRAC 27" :

(i) *He wrote to me that his honeymoon trip to Morocco had been cancelled... His wife had spent a month arranging prostitutes in advance and now everything was falling apart.*

(ii) any reproduction of the image of Michel HOUELLEBECQ and Qianyun LI, this, directly or indirectly, in any form whatsoever and whatever the medium of distribution, throughout the world, and in particular on the website <https://www.keepingitrealartcritics.com/wordpress/> edited by Stefan RUITENBEEK and on all social networks administered by Stefan RUITENBEEK, such as VIMEO, YOUTUBE, INSTAGRAM or TWITTER, under the terms and conditions set out in the operative part of the originating document,

-to prohibit Stefan RUITENBEEK from using the following statements: "*He wrote to me that his honeymoon trip to Morocco had been cancelled*"(...) "*His wife had spent a month arranging prostitutes in advance and now everything was falling apart*" or any

similar statement in the presentation or promotion of the film and this, directly or indirectly, in whatever form

either and whatever the medium of diffusion, in the whole world, and in particular on the website <https://www.keepingitrealartcritics.com/wordpress/> edited by Stefan RUITENBEEK and on all social networks administered by Stefan RUITENBEEK, such as VIMEO, YOUTUBE, INSTAGRAM or TWITTER, under the terms and conditions set out in the operative part of the originating document,

- to order Stefan RUITENBEEK to pay Quianyun LI the provisional sum of 100,000 euros as compensation for its damages,

- to order Stefan RUITENBEEK to pay Michel HOULLEBECQ the provisional sum of 100,000 euros as compensation for his loss,

- to order Stefan RUITENBEEK to publish on the website <https://www.keepingitrealartcritics.com/wordpress/> and on the YOUTUBE page entitled KIRAC, within 48 hours of the notification of the order to intervene, the operative part of the latter and this under a fine of 10,000 euros per day of delay,

. Concerning the broadcast of the film in its entirety :

- to order Stefan RUITENBEEK, in the event that the latter does not comply with the summons to communicate contained in the present summons, to communicate to the HOUELLEBECQ couple, within 24 hours following the availability of the order to be made enforceable on the minute, the complete copy of the film entitled "KIRAC 27", reproducing the images of the couple and whose diffusion is announced for March 11, 2023, and this under a fine of 5,000 euros per day of delay,

- to order the viewing of the said film reproducing the images of the HOUELLEBECQ spouses and whose diffusion is announced for March 11, 2023 in the presence of the judge of the summary proceedings and at a date decided by him so that it is statute, if necessary, on the requests of the spouses consecutive to the visioning, and this before March 11, 2023,

- to prohibit Stefan RUITENBEEK, as a precautionary measure pending the screening of the film "KIRAC 27", from broadcasting the said film, directly or indirectly, in any form whatsoever and on any medium whatsoever, throughout the world, and in particular in cinemas, commercially or non-commercially, on the Internet at <https://www.keepingitrealartcritics.com/wordpress/> edited by Stefan RUITENBEEK and on all social networks administered by Stefan RUITENBEEK, such as VIMEO, YOUTUBE, INSTAGRAM or TWITTER,

In any event, order Stefan RUITENBEEK to pay Qianyun LI and Michel HOUELLEBECQ the sum of 20,000 euros pursuant to the provisions of Article 700 of the French Code of Civil

Procedure.

Code of Civil Procedure and order him to pay the costs.

Having regard to the conclusions in response of Stefan RUITENBEEK, filed on 1^{er} March 2023, who asks us, in accordance with articles 10 of the European Convention for the Protection of Human Rights, 9 of the Civil Code, 12, 56, 648, 835 of the Code of Civil Procedure and 29 paragraph 1^{er}, 32 paragraph 1^{er} and 53 of the law of July 29, 1881 :

. *In limine litis* :

- to declare that the Court of First Instance of Amsterdam (Civil Section) has no territorial jurisdiction,
- to annul the writ of February 23, 2023 for failure to comply with the provisions of articles 56 and 648 of the Code of Civil Procedure,

- to reclassify the action as defamation on the basis of article 29 paragraph 1^{er} of the law of July 29, 1881 and consequently, to annul the summons for failure to comply with the requirements of article 53 of the law of July 29, 1881,

. In the alternative, to declare that there is no need for summary proceedings and consequently to dismiss Michel Houellebecq and Qianyun LI's claims, ends and submissions,

. In any case, to order Michel HOUELLEBECQ and Qianyun LI to pay to Stefan RUITENBEEK the sum of 5,000 euros each under Article 700 of the Code of Civil Procedure and to pay the costs.

The parties presented their written submissions orally and developed additional observations at the hearing of 1^{er} March 2023. The objections raised in defense were argued before any discussion of the merits. In response, the plaintiffs requested that these arguments be rejected.

The case was set down for deliberation at 11:00 a.m. on March 3, 2023, and was made available at the clerk's office.

REASONS

On the subject matter of the dispute:

Within the framework of the present litigation, it is exposed that Michel HOUELLEBECQ, a French writer and artist, and his wife since 2018, Qianyun LI, had exchanges as early as July 2022 with Stefan RUITENBEEK, a Dutch writer-director, with a view to organizing a "*miscatonic*" artistic project with the Gerrit Rietveld Academy, the "*most prestigious art school in the Netherlands*" according to the terms of an e-mail sent by the latter on July 4, 2022 (plaintiff's exhibit n°3), before being persuaded to participate in the shooting of an erotic or even pornographic film with the idea of filming scenes of sexual relations between Michel HOUELLEBECQ and women who appreciate his work as an author.

On the occasion of the couple's trip to Amsterdam in December

2022, a contract was signed, on the one hand, between Michel HOUELLEBECQ and Stefan RUITENBEEK, on December 21, 2022, and on the other hand, between Qianyun LI and Stefan RUITENBEEK, on the same date (plaintiff's exhibits n°8 and 9 and defendant's exhibits n°1 and 2)

According to the free translation into French of the said contracts, each of them was entitled "*Release Form*" and contained the participant's permission to perform "*as a subject, for artistic, fictional, documentary, performative, essayistic, erotic and pornographic use of the KIRAC films and episodes*", which "*may or may not include explicit content, content intended for an audience of 18 years of age or older, sexual content, content showing sexual acts or genitals*".

In point 1.3, it was mentioned that "*the faces of Michel Houellebecq and Lysis Houellebecq will never be shown together in the same shot with images of Michel's penis and Lysis' vagina. In shots that show their identifiable visages, the aforementioned genitals will not be visible at all. Any sequence describing acts of caressing, embracing, physical intimacy and kissing may contain recognizable faces and dialogue, as they appear in Hollywood and art films*", being further specified in point 1.4 that this authorization corresponded to contents created and/or obtained by "*Stefan*" and his team from 1^{er} November 2022 to 31 December 2023.

No remuneration was foreseen.

Each contract provided for screening in selected festivals, on television, on social networks, on streaming platforms, etc.

In its point 6, it mentioned the transfer to "*Stefan*" of all rights resulting from this collaboration.

In its point 8, it specified that the participant accepted that "*this agreement does not give him any right to preview the works mentioned in point 1.1 and that he has no right to influence or intervene in the results of the production and/or editing processes*".

Finally, in point 9, each of the contracts provided, under the heading "*applicable law and competent court*", that "*the legal relationship between the parties shall be governed by Dutch law*", and then that "*all disputes that may arise between the parties shall be submitted to the Dutch court (under Dutch law) by the court in Amsterdam*".

The plaintiffs state that they put an end to this project on December 23, even though the filming was supposed to take place until December 26, 2022, and to this end they produce the e-mail exchanges that took place between the parties between December 23, 2022 and January 24, 2023 (plaintiff's exhibit #10).

The applicants state that they are aware that the trailer for the film was posted on the VIMEO platform on January 15, 2023 and on January 23, 2023, in French and English subtitled versions, as well as on KIRAC's social networks and the KIRAC website, where the film's release was announced for March 11, 2023.

To attest to this, the applicants produce a bailiff's report dated February 2, 2023 (exhibit 12 for the VIMEO and KIRAC sites).

The trailer consists of a video showing first a pregnant woman, which the viewer understands, by the explanations given in voice-over, that it is the companion of the director about to give birth. After having shown some brief scenes surrounding the birth of his wife, specifying that the birth of his second child intervened thus at the end of the year, at a period which he apprehended and indicating that he was not made "*for the traditional role of the cheerful father*", the director expressing himself in voice-over announces the arrival of Michel HOUELLEBECQ in these terms: "*The only person less delighted with Christmas was the famous writer Michel Houellebecq*". He first appears sitting on a bed, naked, with only his upper body visible. The next sequence shows him in a station hall. In voice-over, it is specified that exchanges took place by e-mail and that the writer wrote to the director "*that his honeymoon trip to Morocco had been cancelled*". The video returns to the subject sitting naked in a bed, lighting a cigarette, and then shows a woman in the back of a car saying in commentary: "*his wife had spent a month arranging prostitutes in advance and now everything was falling apart*".

This sequence is followed by the image of Michel HOUELLEBECQ in pyjamas, on a bed, next to a woman in a nightie, both laughing, while the director indicates, still in voice-over: "*I told him that I knew many girls in Amsterdam who would sleep with the famous writer out of curiosity*".

The spectator then attends the physical approach of Michel HOUELLEBECQ and the woman presented on the preceding sequence, the two protagonists starting to embrace and kiss.

At the end of the video, it is announced that:

*"KIRAC 27
online release
March 11, 2023
kirac.nl".*

The plaintiffs deplore, in the context of the present litigation, that certain remarks made by the voice-over in the trailer and certain images are "*invasive of their privacy*" and that the actions attributed to them in this context are "*horribly offensive*", without them ever having given their consent to the trailer for this film or, *a fortiori*, to the film it advertises being presented with "*such a racy synopsis that is invasive of the plaintiffs' privacy*".

Michel HOUELLEBECQ and Qianyun LI justify the steps taken in order to remove the trailer "*from all platforms and social networks worldwide*" on the one hand, and to prevent any online "*film KIRAC 27*" containing the incriminated statements and / or shots where Mr. HOUELLEBECQ and / or Ms. LI are shown or mentioned, and more generally, refrain from any commercial or non-commercial exploitation, on any medium and in any form whatsoever

either, by extracts or in whole, of the said film in the whole world and of all images of the HOUELLEBECQ spouses" on the other hand (exhibits n°22 and 26 of the applicants).

These having remained unsuccessful, they sued Stefan RUITENBEEK before the present jurisdiction.

On procedural exceptions:

- On the lack of territorial jurisdiction raised in defense :

Stefan RUITENBEEK maintains that the relationship between the parties in connection with the film and the trailer "KIRAC 27" is governed by a contract signed on December 21, 2022 between himself and Michel HOUELLEBECQ on the one hand, and between himself and Qianyun LI on the other hand, so that the action brought here has a contractual basis involving the implementation of the provisions of Article 7.1 of the EU Regulation 1215/2012 (known as Brussels I bis), according to which the defendant is sued before the court of the place of performance of the obligation that serves as the basis of the claim, and those of Article 25.1, which provide for the jurisdiction of the courts designated by the parties to hear disputes arising or to arise in connection with a particular legal relationship. The defendant thus invokes, in order to avail itself of the jurisdiction of the Dutch court, the existence of a contractual clause providing that all disputes that may arise between the parties shall be submitted to the latter, in this case the Amsterdam court.

Michel HOUELLEBECQ and Qianyun LI oppose this argument, arguing that no contract was entered into for the broadcasting of the disputed trailer, so that the action brought has a tortious dimension, since it is an infringement of personality rights for which they are seeking compensation, which legitimizes the jurisdiction of the French court under the provisions of Article 7§2 of EU Regulation No. 1215/2012, since they each have the center of their interests in France, the country in which they live and work in particular. They add that, since the facts were committed in France by the online posting of the disputed trailer, also visible with subtitles in French intended to be understood by a French audience, thus making it possible to determine, pursuant to the provisions of Article 1^{er} of EU Regulation No. 864/2007, known as "Rome II", that French law is applicable in this case, the damage having been suffered by the Houellebecq couple on French territory.

*

The provisions of article 75 of the Code of Civil Procedure stipulate that, if it is claimed that the court seized in first instance or on appeal lacks jurisdiction, the party raising this objection must, on pain of inadmissibility, state the reasons for it and indicate in all cases before which court he is requesting that

the case be brought.

Pursuant to the provisions of article 81 of the same code, when the judge considers that the case falls within the jurisdiction of a foreign court, he shall only refer the parties to take further action.

With regard to the rules of jurisdiction concerning a dispute involving persons domiciled in the territory of a Member State, Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters provides for the following rules concerning the determination of the court having jurisdiction to rule in civil and commercial matters, except for the cases of exclusion provided for in its Article 1^o :

- According to Article 4 of the Regulation, "*Subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State.*

2. Persons who are not nationals of the Member State in which they are domiciled shall be subject to the rules of jurisdiction applicable to nationals of that Member State" and according to Article 5: "1. Persons domiciled in a Member State may be sued in the courts of another Member State only by virtue of the rules set out in Sections 2 to 7 of this Chapter [...]".

- according to Article 7:

"A person domiciled in a Member State may be sued in another Member State :

1) a) in contractual matters, before the court of the place of performance of the obligation on which the claim is based [...].

2) in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred or may occur [...]".

In this case, the defendant in the proceedings is domiciled in Amsterdam (Netherlands), in a Member State of the European Union.

He was sued before a French court, and therefore on the territory of another Member State, so it is necessary to verify whether the derogation provisions set out in the aforementioned Article 7 are applicable.

He puts forward a plea in law seeking to have the jurisdiction of the present court recognized in favor of a Dutch court.

It follows from the above description of the subject matter of the dispute that it relates, on the one hand, to the execution of "discharge" contracts signed by the parties on December 21, 2022, with a view to making a film as part of an "*artistic, fictional, documentary, performative, essayist, erotic and pornographic*" project of the films and episodes of KIRAC, and, on the other hand, to the broadcasting, on January 15 and 23, 2023, of the trailer for the said film, because of the comments and images it contains.

Within the framework of each "discharge" contract, it has been

foreseen that

"the participant", i.e. Michel HOUELLEBECQ for the first one and Qianyun LI for the second one, *"gives the authorization to Stefan to obtain, to publish, to reproduce, to download, to diffuse, to use, to reuse, to exploit in the broad sense, to store digitally and/or physically images with his portrait for an indefinite period of time for promotional, recruitment, commercial and/or noncommercial purposes"* (point 4 *"Conditions"* of the contracts put in the debates).

It follows that the contract between each of the plaintiffs and the defendant provided for the use of images depicting the participants' portraits for the promotion of the film.

The use of filmed sequences, some of them outside the context of the shooting of the erotic or pornographic scenes that are the subject of the contract, gathered in a video featuring the protagonists of the film and contextualizing the origin of the project in order to announce its release, thus for promotional purposes, does not fall within the contractual provisions as detailed above.

Moreover, the claims relating to the broadcasting of the trailer are clearly distinct, in the document initiating the proceedings, from the claims relating to the broadcasting of the film itself.

As regards the latter, which are intrinsically linked to the performance of the contract concluded between each of the plaintiffs and the defendant, only the court of the place of performance of the said obligations has jurisdiction.

It is established and in any case not disputed that the film is located in Amsterdam, so that the present court does not have territorial jurisdiction to hear claims relating to the film itself.

As regards, on the other hand, the pleas and claims relating to the broadcasting of the trailer, this time concerning claims of a tortious nature seeking compensation for damage caused by an alleged infringement of the plaintiffs' privacy and right to image, the court of the place where the harmful event occurred or is likely to occur has jurisdiction.

In this respect, it is established that the disputed video, which is the disputed material, was broadcast on the Internet (see plaintiffs' exhibit 12), and thus made available to network users and accessible to everyone on French territory. It is demonstrated that it contains references that link it to the said territory insofar as the remarks made in Dutch are translated into French with subtitles and concern a French writer and his wife, both domiciled in France.

In these circumstances, it is appropriate to declare that it has no jurisdiction in part and to refer the parties for further proceedings with regard to the claims made concerning the broadcasting of the film "KIRAC 27", and then to reject the plea of lack of jurisdiction for

the remainder, this court retaining jurisdiction over the claims relating to the broadcast of the disputed trailer.

- On the nullity of the summons based on the disregard of the provisions of Articles 56 and 648 of the Code of Civil Procedure:

Stefan RUITENBEEK argues that the summons is void because it is not sufficiently clear as to whether he was sued before this court as a natural person or as a legal person.

Michel HOUELLEBECQ and Qianyun LI oppose this argument, considering that a certain confusion is maintained by Stefan RUITENBEEK himself.

*

According to the provisions of article 114 of the Code of Civil Procedure, "no procedural act may be declared null and void on the grounds of a defect in form if its nullity is not expressly provided for by law, except in the case of non-compliance with a substantial formality or public policy. Nullity can only be pronounced if the adversary who invokes it proves the prejudice caused to him by the irregularity, even when it concerns a substantial formality or public order".

It results from the combination of articles 56 and 648 of the code of civil procedure that the summons must contain, under penalty of nullity, under the mentions prescribed for the acts of judicial officer, if the applicant is a natural person, his name, first names, profession, residence, nationality, date and place of birth and if he is a legal person, its form, its name, its registered office and the body which legally represents it.

In this case, the summons was issued to "*Stefan RUITENBEEK, practicing under the name of Stefan RUITENBEEK, Keeping It Real Art Critics, KIRAC*", with the mention of its registration number with the Dutch Chamber of Commerce and an address in Amsterdam, where it was hit.

In the body of the document, he is referred to as a natural person ("*Mr. Stefan RUITENBEEK...*").

The identification details of the defendant on the summons correspond to those on the extract issued by the Dutch Chamber of Commerce (Plaintiffs' Exhibit 2.2) to identify the company established on January 1^{er} 2015 which bears the name of its owner, Stefan RUITENBEEK.

The existing proximity between Stefan RUITENBEEK, a natural person, and the company he created to carry out his artistic activity, illustrated by the reference to his first name only in the "*discharge*" contracts signed with the plaintiffs, does not allow for the identification of any prejudice caused to the defendant by the absence of a clear distinction in this respect in the mentions of the document initiating the proceedings, the latter having been able to present a complete defense after having been affected within the time limits allowed

by the judge to preserve an adversarial debate.

This plea must therefore be rejected.

- On the nullity of the summons based on the recharacterization of the action as defamation :

Stefan RUITENBEEK argues that the summons is null and void since the plaintiffs are seeking compensation for damage caused exclusively by an alleged attack on their reputation, so that it was up to them to initiate their action on the basis of the provisions of article 29 paragraph 1^{er} of the law of July 29, 1881, following the procedural rules imposed by this law, which are of public order.

Michel HOUELLEBECQ and Qianyun LI contest this analysis and any recharacterization of their action in this sense, insisting on the fact that they are invoking violations of privacy and the right to the image of each person whose intimate practices are exposed without them having given their permission to be presented in such an account.

*

Since the abuses of freedom of expression provided for and punished by the law of July 29, 1988 cannot be remedied on the basis of the ordinary law of civil liability, it is up to the judge hearing an action based on article 1240 of the Civil Code to restore to the alleged facts their exact characterization with regard to the law of the press, without stopping at the denomination retained by the plaintiff, by application of the provisions of article 12 of the Code of Civil Procedure.

The same is true if the action is brought under the provisions of Article 9 of the Civil Code, which protects against any invasion of privacy.

Only the existence of distinct facts justifies that the provisions of the law on freedom of the press do not exclude the application of the provisions of the civil code.

In this case, it is necessary to determine whether the summons is aimed solely at comments and acts constituting an invasion of privacy and/or the right to one's image, or whether it is in fact intended to repair damage caused by an attack on one's reputation as protected by the sanction of public defamation against a private individual, as provided for by the provisions of articles 29, paragraph 1^{er} and 32, paragraph 1^{er} of the law of July 29, 1881.

After having presented the context of the capture, by Stefan RUITENBEEK, of the images and sequences showing Michel HOUELLEBECQ and his wife, as detailed above, the document initiating the proceedings concludes, in point 7.2, that "*given the invasive nature of the plaintiffs' privacy and the shocking nature of the actions attributed to Mrs LI by Mr. RUITENBEEK in the voiceover of the trailer, Plaintiffs have caused the broadcast of the trailer on*

VIMEO..".

They deplore the way in which the film is presented and in particular the reference to a cancelled honeymoon, initially planned in Morocco and for which the wife would have "*arranged prostitutes in advance*" and to the proposal made, in return for the permission to film, to contact "*girls in Amsterdam who would sleep with the famous writer out of curiosity*", before specifying that they "*never gave their consent for the trailer of the film, and a fortiori the film it announces, to be presented with such a racy synopsis and invading the privacy of the applicants*".

They then clarify what they present as the real motives for the trip to Morocco alluded to in the trailer, mentioning that it was part of a literary tour and disputing the preparation of meetings with prostitutes.

They regret that Stefan RUITENBEEK used a real fact of the writer's life to "*divert it, in total contempt of the rights of the Houellebecq couple and to increase, thanks to subversive and misleading remarks concerning a famous man, the promotion of his only activities*".

In point 7.6, the plaintiffs refer to the press release in which they publicly expressed their indignation "*in view of the damaging terms of the remarks made by Mr. Ruitenbeek in the trailer and reported by the French press*".

Filed in support of the writ of summons as Exhibit 21, this press release dated February 7, 2023 opens with the discovery by Michel HOUELLEBECQ and Qianyun LI "*with dismay and disgust*" that the video trailer "*contained statements implicating them, serious and untrue, violently undermining their dignity*", adding that "*Stefan Ruitenbeek subsequently repeated his defamatory remarks in various interviews*", deducing that "*these filthy affabulations constitute an intolerable violation of their right to respect for their most intimate private life, and their right to image*".

In the development of the document initiating the proceedings devoted to the analysis of the infringements of the privacy of the plaintiffs, it is stated in point 2.2:

"*These are statements that violate the plaintiffs' right to privacy for the following reasons:*

- *These comments are based on the real or supposed conditions in which the honeymoon of Mr. HOUELLEBECQ and Mrs. LI was to take place, as well as the alleged location of this honeymoon;*

- *These remarks lend to Mr. HOUELLEBECQ desires to have intimate relations with prostitutes;*

- *Mr. RUITENBEEK does not hesitate to affirm that Mrs. LI would have organized in advance meetings between Michel HOUELLEBECQ and prostitutes in Morocco*".

After underlining "*the absurdity of such a presentation*" especially since the spouses have been married since 2018, it is mentioned that in reality, "*this reference to the marriage of the spouses has*

for the sole purpose of making the issue of prostitutes more shocking, in the eyes of the public, by opposing it to the romantic image of the honeymoon, reinforcing the infringement of the rights of the plaintiffs who are affected in their most intimate sphere", they underline the importance of the damage suffered for the tranquility of their private life as a couple and the self-interested approach of the defendant, who would seek, with this sensational effect, to reap the maximum profits.

With regard to the developments devoted to the image rights of the plaintiffs following the broadcasting of the trailer, it is argued that Stefan RUITENBEEK used the image of the plaintiffs in a context that was totally different from the initial context in which the authorizations had been given, the director having *"knowingly chosen to tell a deliberately indecent story, moreover untrue, on the intimate life of the couple, with the aim of ensuring that his film would have a huge impact, given the high profile of its main character"*, again referring to the alleged steps taken by the wife in the context of the *"supposed honeymoon in Morocco"* and the *"fallback solution"* which would have consisted of making a pornographic film with this director in Amsterdam.

As part of the relief sought, the plaintiffs are seeking, in particular, an award of provisional damages insofar as the comments made by the defendant touch the most intimate sphere of the couple.

Qianyun LI claims, for her part, the granting of provisional damages on the grounds that she is *"presented as the organizer of supposed sexual encounters between Michel HOUELLEBECQ and prostitutes"* and is thus *"implicated by the director who attributes to her activities contrary to good morals"* (point 2.4.2.1 of the summons)

Michel HOUELLEBECQ solicits, for his part, repair of the fact that the director, preferring to use false and racoleur terms to present the film rather than to put forward any artistic expression, has *"necessarily devalued"* his work and *"more generally"*, his *"whole reputation as a creator, which is tainted definitively by this prejudicial presentation of his rights, which shamelessly crossed all the borders, not hesitating to affabulate on the most intimate of his life, that is to say his life of couple"*.

It results from the analysis of the terms of the document initiating the proceedings that, under cover of invoking an infringement of the respect due to their private life and their right to image, the plaintiffs criticize in reality the steps and intentions which are lent to them by means of the remarks made in the trailer of the film "KIRAC 27" which they consider to be seriously prejudicial to their honor, concerning the recourse, by Michel HOUELLEBECQ and thanks to the intermediary of his wife, to prostitutes in Morocco, on the occasion of a trip qualified, wrongly according to them, as a *"honeymoon trip"* and the participation of each of them, instead of this cancelled project, in the realization of an erotic or even pornographic film with the aim not of being part of an artistic approach but of

benefit, again, of sexual relations with "*girls in Holland*", and this always at the initiative of the wife.

This is an action seeking recognition of the fault committed by the defendant as a result of the broadcasting of comments on images of each of the plaintiffs, which they do not claim were stolen or misappropriated per se, but which they deplore being staged in a story intended to shock the public about the morals of the couple, if they concern by nature their intimate life, are deplored here in consideration of the degraded image of themselves that they would be likely to return, if necessary, of nature to damage their honor and their reputation.

In view of all these elements, it must therefore be considered that the action brought before the present court by the HOUELLEBECQ consorts falls under the provisions of the law of July 29, 1881.

It is therefore appropriate to requalify their action on the basis of article 29 paragraph 1 of the law of July 29, 1881 and to consider that it is null and void insofar as it does not meet the criteria laid down by the provisions of article 53 of this law, in particular with regard to the precise identification of the incriminated remarks and/or images or even the requirements of the citation of the texts and prior notification of the public prosecutor.

On the claims for unrecoverable costs :

As the plaintiffs are unsuccessful in the proceedings, they shall bear all the costs of the proceedings, in accordance with the provisions of Article 699 of the Code of Civil Procedure. Their claim for unrecoverable costs will be dismissed.

It is appropriate, in equity, to order them, *in solidum*, to pay to Stefan RUITENBEEK who has incurred irreducible costs in the context of the present proceedings, the sum of 2,000 euros under Article 700 of the Code of Civil Procedure.

BY THESE REASONS,

Ruling publicly, by availability at the clerk's office, by contradictory order and in first instance,

We partially grant the exception of territorial incompetence raised by Stefan RUITENBEEK, declare ourselves partially incompetent territorially and send back Michel THOMAS dit HOUELLEBECQ and Qianyun LI to better provide for the claims formulated against Stefan RUITENBEEK concerning the diffusion of the film entitled "KIRAC 27",

Reject the exception of territorial incompetence for the remainder, and declare ourselves territorially competent to rule on the claims formulated against Stefan RUITENBEEK

regarding the broadcasting on January 23, 2023, on the VIMEO platform and on January 23, 2023, on the YOUTUBE platform, of the trailer of the film entitled "KIRAC 27",

Reject the exception of nullity based on the mentions relating to the identification of Stefan RUITENBEEK on the summons delivered to him on February 21, 2023,

Declare null and void the writ delivered by Michel THOMAS dit HOUELLEBECQ and Qianyun LI, on February 21, 2023, to Stefan RUITENBEEK,

Condemn Michel THOMAS dit HOUELLEBECQ and Qianyun LI to pay, *jointly and severally*, the sum of 2,000 euros to Stefan RUITENBEEK in application of the provisions of article 700 of the code of civil procedure,

Condemn Michel THOMAS dit HOUELLEBECQ and Qianyun LI to pay all the costs.

Done in Paris on **March 03, 2023**

The Registrar,

The President,

Minas

MAKRISDelphine CHAUCHIS