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Estonian Supreme Court rules on the communication to the public of phonograms by a (non-profit) dance school

Elise Vasamae (Palladium Attorneys at Law) · Thursday, March 24th, 2022

In the recent case of [Estonian Performers Union \(EEL\) v vs. MTÜ Urban Style](#), the Estonian Supreme Court examined the circumstances that should be taken into account in determining the amount of the equitable remuneration that phonogram producers and performers are entitled to claim if a phonogram published for commercial purposes or a reproduction thereof is used for communication to the public. The court held that when determining the amount of the equitable remuneration, the legal form of the user of the phonograms is not relevant. Instead, the economic value and gain deriving from the use of the phonograms are decisive. The court also pointed out that the following circumstances shall also be taken into account in the establishment of reasonable tariffs for remuneration rights: (i) the nature and scope of the use of the work and objects of related rights; and (ii) the economic value of the service provided by the collective management organisation.



The court emphasized that from a legal point of view it is always relevant to distinguish the remuneration rights from the exclusive rights granted to right holders. Right holders' right to claim remuneration does not give the right to claim for the prohibition of the communication to the public. The claim for the prohibition of certain uses of the protected content is allowed only in those cases where the right holders have been granted exclusive rights to authorize or prohibit such use of their rights.

In examining the legal concept of “equitable remuneration”, in this case the court also referred to the relevant case law of the ECJ – Cases [C-245/00, SENA](#); and [C-117/15, Reha Training](#).

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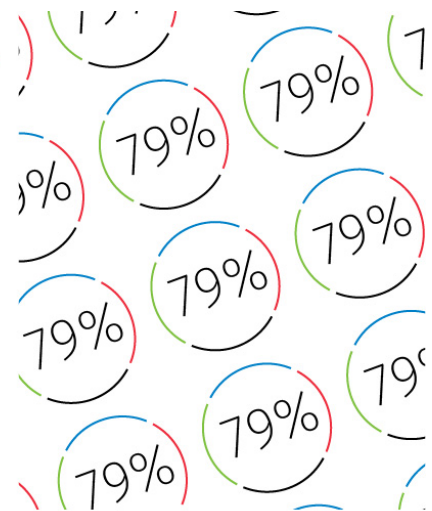
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