

Estonia: Miina Härma Gymnasium II, Supreme Court of Estonia, 3-2-1-159-16, 27 February 2017

Kluwer Copyright Blog

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

The Supreme Court of Estonia analysed the conditions under which the public performance of works at a school concert falls within the free use exception. In principle, the Supreme Court agreed with the courts of lower instance by holding that the public performance of works at a (school) concert falls within the exception for free use only if all five of the conditions laid down in Section 22 of the Estonian Copyright Act are met. The court emphasised, however, that the main objective of Section 22 is to enable pupils to gain diverse experiences and to apply learnt skills in performing various works. Therefore, the use of works can also fall within the free use exception where the public performance does not take place on the premises of the educational institution itself. The most important factor is that the concert must take place within the framework of the activities of the school. In addition, the Supreme Court took the position that the courts of lower instance had erred in stating that the concept of the “direct teaching process” did not cover the school concert under discussion.

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