

Chapter 7: Related rights

March 2020 update

Performer's rights

Spedidam v INA, C-484/18, ECLI:EU:C:2019:970 concerned similar issues to those discussed in *Soulier and Doke*, C-301/15, ECLI:EU:C:2016:878, however the relevant rightholders were performers and subject to consideration was the legitimacy of a rebuttable presumption that the performer authorized the fixation and exploitation of their performances, in cases where that performer was involved in the recording of an audiovisual work in order for it to be broadcast. The CJEU held that Article 2(b) and Article 3(2)(a) of the Information Society Directive (2001/29/EC), outlining the reproduction and communication right respectively, must be interpreted as not precluding national legislation which establishes such a rebuttable presumption.

Press publishers' right: the German Google tax

Germany was the first country in Europe to introduce a related right in favour of press publishers, the so-called 'Google tax' (ss. 87f-h of the German Copyright Act). There is now an EU-wide right for press publishers (Article 15 of the DSM Directive). The CJEU considered the legitimacy of the German press publishers' right in *VG Media Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH v Google*, C-299/17, ECLI:EU:C:2019:716, and held that the right in question is unenforceable because German Government failed to notify the EU Commission.