[DE] Ruling by the Bundesgerichtshof (Federal Supreme Court) on Video Surveillance of a Public Footpath

IRIS 1995-7:1/27

Stefanie Junker
Institute of European Media Law (EMR), Saarbrücken/Brussels

On 25 April 1995 the 4th senate for civil matters of the Federal Supreme Court (Bundesgerichtshof) issued a ruling concerning the surveillance of a public footpath using a private video camera.

The parties are neighbouring landowners who have joint access to their respective properties by a 1.2-metre wide public footpath.

The issue of the case was that the defendant had installed a camera on her land, the purpose of which was to survey part of the footpath over the whole of its width after rubbish had been thrown onto her land on frequent occasions from the said footpath. She used the programmable camera to make film of the path and hence also of the plaintiffs when they used the path to walk to and from their property.

The Federal Supreme Court established that the plaintiffs should not have to tolerate being surveyed by the defendant using a video camera as and when she pleased.

A summary of the Federal Supreme Court's findings is as follows: The making of this type of video recording was considered to be an intrusion of the plaintiffs' privacy despite the reasons for the video recordings expressed by the defendant.

The defendant carried out deliberate surveillance on a part of a public footpath over a continued period of time in order to form a clear picture of the users of the footpath. The plaintiffs could not avoid being recorded when they used the footpath to go to and from their properties. The plaintiffs could not establish either when or whether the said video recordings were being made. For this reason, the plaintiffs had to assume that they were being filmed every time they used the footpath.

The intrusion which this constituted into the privacy of the plaintiffs could not be justified by any serious reasons which might emanate from the legally justifiable interests of the defendant. She had the right under constitutional law (art. 14 paragraph 1 of basic law) to take measures to protect her property but these should not however infringe in an over-exaggerated way upon important items of property protected by law and belonging to any third party.

© European Audiovisual Observatory (Council of Europe) 2026

Urteil des VI. Zivilsenats des BGH vom 25. April 1995, VI ZR 272/94, 13 S.

Ruling by the 4th senate for civil matters of the Federal Supreme Court on 25 April 1995. VI ZR 272/94

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026