[DE] Right to Install Satellite Dish Despite Cable Connection

IRIS 2004-5:1/9

Carmen Palzer
Institute of European Media Law (EMR), Saarbrücken/Brussels

According to a decision of the Bundesgerichtshof (Federal Supreme Court - BGH) of 22 January 2004, the owner of an apartment with a cable connection can install a satellite dish on his balcony if this is the only way of safeguarding his right to information.

In the BGH's opinion, there was no legal justification for preventing foreign apartment owners from installing a satellite dish even if they already had a broadband cable connection. This applied to the legal provisions governing the use of separate and joint property. Neither could such a right be restricted by regulations permitting the installation of an outdoor dish only with the written consent of the apartment administrator or decision of the apartment owners' association. According to the BGH, even the decision taken by the majority of apartment owners in the present case to prohibit the installation of satellite dishes did not limit the rights of foreign apartment owners. Their right to information from generally accessible sources, guaranteed in Art. 5.1.1 of the Grundgesetz (Basic Law), took precedence over the interests of other apartment owners. In the BGH's opinion, as foreign nationals, they had a particular right to information. That right could not be fulfilled by the one Polish TV channel that was available via cable. Of course, the interests of other residents should be taken into account in the installation process. For example, if several residents wished to install satellite dishes, they could be required to share one.

In its ruling, the BGH expressly left open the question of whether the discrepancy between the selection of channels available via cable and satellite that resulted from technical progress was such that German apartment owners should also be entitled to install a satellite dish even if they already had a cable connection. Referring to the European Commission Communication on the Application of the General Principles of Free Movement of Goods and Services Concerning the Use of Satellite Dishes of 27 June 2001 (COM(2001) 351 final, see IRIS 20018: 5), the BGH ruled that, in view of technical developments that meant that several hundred radio and TV channels could be received via satellite in Europe, it was questionable whether the range of media available via cable was sufficient to protect diversity of opinion. This situation could mean "that, in a broader sense, even German apartment owners could no longer simply be referred to the cable connection provided". Since in the present case the apartment owners were not German, the BGH did not (yet) need to answer this question.

© European Audiovisual Observatory (Council of Europe) 2026

Beschluss des Bundesgerichtshofs vom 22. Januar 2004, Aktenzeichen VZB 51/03

http://www.bundesgerichtshof.de/

Decision of the Federal Supreme Court, 22 January 2004, case no. VZB 51/03

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026