[DE] Düsseldorf Administrative Court Confirms Border-Region Cable Network Rules

IRIS 2014-1:1/20

Christian Lewke
Institute of European Media Law (EMR), Saarbrücken/Brussels

In two parallel procedures, the Verwaltungsgericht Düsseldorf (Düsseldorf Administrative Court - VG) ruled, in its decisions of 27 September 2013 (case nos. 27 K 5549/12 and 27 K 5665/12), that the provision of Article 18(4) of the Landesmediengesetz Nordrhein-Westfalen (North Rhine-Westphalia Media Act - LMG) had not become inapplicable or redundant as a result of the switch to digital terrestrial broadcasting technology (DVB-T).

According to Article 18(4) LMG, the Landesanstalt für Medien Nordrhein-Westfalen (North Rhine-Westphalia Media Authority - LfM) must ensure that analogue cable networks in border-region transmission zones carry a channel that is easy to receive by terrestrial means across the border.

The VG considered that both plaintiffs - Norddeutscher Rundfunk (North German Broadcasting Corporation - NDR) and the Dutch public service broadcaster Nederlandse Publieke Omroep (NPO) - were entitled to be included by the LfM.

The amendment of the rules governing international frequency allocation - known as regional “allotments” instead of the previous “assignments” that had depended on the broadcaster’s location - did not affect the applicability of Article 18(4) LMG. As before, there was a terrestrial “overspill”, which was referred to in Article 18(4) LMG. Neither the wording of the provision nor its origins suggested that it did not apply to channels that could be received by digital terrestrial means. On the contrary, even though various amendments had been made to the LMG in relation to digital technology, the legislator had left the provision unchanged, which suggested that it remained applicable. The aim and object of the provision, namely the protection of adjacent communication zones beyond political borders and national administrative areas, suggested that programmes that could be received digitally should be included in analogue cable networks.

Regarding which reception methods should be taken into account when investigating which programmes could be received using the “average aerial”, it was - as the LfM’s constitution confirmed - roof aerials that should be considered, rather than portable aerials, as the LfM had argued. The LfM was therefore required to recalculate the relevant transmission zones.

© European Audiovisual Observatory (Council of Europe) 2026

The VG ruled that an appeal against its decision could be lodged with the Oberverwaltungsgericht (Administrative Court of Appeal) of North Rhine-Westphalia in Münster.

Urteil des VG Düsseldorf vom 27. September 2013 (Az. 27 K 5549/12)

http://www.justiz.nrw.de/nrwe/ovgs/vg_duesseldorf/j2013/27_K_5549_12_Urteil_20130927.html

Ruling of the Düsseldorf Administrative Court of 27 September 2013 (case no. 27 K 5549/12)

Urteil des VG Düsseldorf vom 27. September 2013 (Az. 27 K 5665/12)

http://www.justiz.nrw.de/nrwe/ovgs/vg_duesseldorf/j2013/27_K_5665_12_Urteil_20130927.html

Ruling of the Düsseldorf Administrative Court of 27 September 2013 (case no. 27 K 5665/12)

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026