# [DE] Ruling on ex-chancellor Kohl's widow's claim to information about whereabouts of tape recordings

**IRIS 2020-9:1/22**

*Mirjam Kaiser*
*Institute of European Media Law*

In a ruling of 3 September 2020, the third civil chamber of the *Bundesgerichtshof* (Federal Supreme Court – BGH), Germany's highest civil court, decided that the widow of former German chancellor Helmut Kohl was entitled to information about the existence and whereabouts of copies of tape recordings with a view to filing a subsequent surrender claim against the defendant, a well-known journalist.

The dispute followed a claim for information about the existence and, in particular, the whereabouts of written, digital and other copies of tape recordings of interviews that the defendant had conducted with Dr Kohl. The interviews covered the whole of Kohl's life, with a particular focus on his period as chancellor. After the collaboration between the two broke down, a legal dispute was followed by the publication of the original tapes, which then became Kohl's property. The dispute that was the subject of the latest judgment was triggered by the defendant's publication of an unauthorised volume of the late ex-chancellor's memoirs under the title *Vermächtnis: Die Kohl-Protokolle* (*Legacy: the Kohl protocols*). The defendant claimed that copies of the tapes still existed, but that they were not in his possession and he could therefore not surrender them.

In order to prevent further publications, Kohl's widow demanded information about the existence and whereabouts of the copied tape recordings and other documents held by the defendant as a result of their collaboration on the writing of Kohl's memoirs so that she could then submit a surrender claim.

Overturning the appeal decision of the *Oberlandesgericht Köln* (Cologne Regional Court of Appeal – OLG) of 29 May 2018 (Case no. 15 U 66/17) and restoring the first-instance ruling of the *Landgericht Köln* (Cologne Regional Court – LG) of 27 April 2017 (Case no. 14 O 286/14), the BGH upheld the information claim, but decided that a further claim concerning other documents was time-barred. In the BGH's view, since a valid contract between the defendant and Kohl had been drawn up under contract law, Kohl's widow was entitled to ask for the recordings to be surrendered under German civil law. German contract law established the right to information about the status of transactions, as well as obligations to account for their completion. In principle, the defendant's statement that the copies were no longer in his possession met this information requirement.

© European Audiovisual Observatory (Council of Europe) 2026

However, the defendant had gone on to say that the copies were scattered “in German lands and abroad”, so it would be “difficult to find them quickly”. According to the BGH, this showed that his previous statement about the tape recordings had been culpably false. Refuting this accusation, the defendant argued that his particular status as a journalist and historian gave him a degree of independence that entitled him to use the documents in question. The BGH countered that the premature end of their collaboration meant that Kohl had withdrawn his consent for any further uses of the material. His widow was therefore entitled to the same compensation that would have been due to Kohl himself if the correct information had been provided. According to the BGH, harm had been caused by the fact that, on account of the false information, it had not been possible to file a surrender claim. However, the court ruled that the claim to information about other documents was already time-barred.

***Pressemitteilung des BGH vom 3.9.2020.***

https://www.bundesgerichtshof.de/SharedDocs/Pressemitteilungen/DE/2020/2020116.html;jsessionid=6F9F82CE66459A0B6E94E66C9B3ED034.2_cid286?nn=10690868

*Federal Supreme Court press release of 3 September 2020*

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026