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Judgment of the Court in Case C-127/24 | VHC 2 Seniorenresidenz

The retransmission of television and radio broadcasts received by a satellite dish to the rooms of a retirement home, via a cable system, does not constitute a communication to the public within the meaning of EU law

GEMA, ¹ a German collecting society active in the music sector, brought an action before the German courts claiming that VHC 2, the operator of a retirement home, should be prohibited from retransmitting television and radio programmes within that home. According to GEMA, that retransmission of musical works in its repertoire requires a licence.

The retransmission is carried out as follows: VHC 2 receives the programmes via satellite and simultaneously retransmits them, unaltered and unabridged, via its cable network, to connections installed in residents' rooms and care rooms.

The German Federal Court of Justice has asked the Court of Justice to clarify the scope of the concept of 'communication to the public' within the meaning of Directive 2001/29 on copyright. ² Under that directive, Member States are to provide authors with the exclusive right to authorise or prohibit any communication to the public of their works.

The Court finds that, **by retransmitting television and radio programmes received by a satellite dish to the rooms of a retirement home, via a cable system, the operator of such a home is not making a 'communication to the public'**. ³

First, the Court finds that a retransmission of broadcasts such as that at issue in the main proceedings cannot be regarded as being done using a 'specific technical means' (that would be the case, for example, if a terrestrial television broadcast were retransmitted over the internet). **Secondly, the residents of a retirement home do not constitute a 'new public'**; rather, they must be regarded as forming part of the public already taken into account by the rightholder when he or she authorised the initial communication of his or her work to the public.

To recognise, in circumstances such as those at issue in the main proceedings, the existence of a 'communication to the public', would result in the copyright holders being given undue remuneration, whereas, under that directive, they should be guaranteed only appropriate remuneration for the use of their works.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte eV.

² [Directive 2001/29/EC](#) of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.

³ According to settled case law, in order to be categorised as a 'communication to the public', a protected work must, *inter alia*, be communicated using specific technical means, different from those previously used or, failing that, to a 'new public', that is to say, to a public that was not already taken into account by the copyright holder when he or she authorised the initial communication of his or her work to the public.