[DE] Bremen Cable Allocation Monopoly Dispute Resolved

IRIS 2000-9:1/10

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In a judgement of 28 August 2000, the Bundesverwaltungsgericht (Federal Administrative Court - BVerwG) dismissed complaints against the decision taken by the Oberverwaltungsgericht der Freien Hansestadt Bremen (Bremen Higher Administrative Court - OVG) on 14 September 1999, in which it decided not to revise cable allocation regulations in Bremen.

The Bremen OVG had upheld the regulations and practice of cable allocation in Bremen after a complaint was lodged by a private cable network operator (see IRIS 2000-1: 9).

The BVerwG based its decision primarily on the fact that the complaints did not have sufficient general legal relevance (Section 132.2.1 of the Rules of the Administrative Court). In principle, a question of appealable law should be raised, together with an explanation of its general relevance above and beyond the individual case. In the Federal Administrative Court's opinion, the general question concerning the "admissibility of the Land Media Authority's decision concerning cable allocation" was not sufficient to fulfil this condition. In order to find a breach of the freedom of information described in Article 5 of the Grundgesetz (Basic Law - GG) or of the freedom of ownership set out in Article 14, the Court held that the grounds on which the Bremen OVG had based its decision (case-law of the Constitutional Court), would have to be examined. The complaint did not explain on what legal grounds the decision in this particular case could be considered incorrect.

Beschluss des BVerwG vom 28. August 2000, Az. 6 B 92.99

Decision of the Federal Administrative Court, 28 August 2000, case no. 6 B 92.99

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