# [DE] BVerwG Action against Frequency Relocation Rejected

**IRIS 2011-4:1/18**

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In a ruling of 26 January 2011, the Bundesverwaltungsgericht (Federal Administrative Court - BVerwG) confirmed the rejection of a complaint by a telecommunications company against a frequency relocation procedure conducted by the Bundesnetzagentur (Federal Network Agency - BNetzA).

In frequency relocation procedures, particular frequencies are directly allocated to one or more providers. This case concerned allocations in the 900 MHz band, which were previously reserved for military use, to the providers O2 and E-Plus. In return, these providers were required to relinquish other frequencies in the 1800 MHz band, which would then be reallocated.

The plaintiff argued that the allocation of the former military frequencies infringed its right to participate in the assignment procedure without discrimination. The complaint, which had already been rejected by lower instance courts, was also dismissed by the BVerwG in the appeal procedure.

The judges explained that, regardless of whether or not the assignment procedure in this case had actually been conducted correctly, no subjective rights of the telecommunications company had been violated. Furthermore, the plaintiff had not submitted its own concept for the efficient use of the 900 MHz band frequencies. The company itself had failed to meet the allocation requirements at the time of the decision.

The court also explained that the objective pursued by the BNetzA when relocating the frequencies, i.e., to promote sustainable competition, was compatible with the objectives of the Telekommunikationsgesetz (Telecommunications Act).

***Pressemitteilung des BVerwG zum Urteil vom 26. Januar 2011 (Az. 6 CF 2.10)***

http://www.bundesverwaltungsgericht.de/enid/714f8bf02286cad17bcde5785640fdc2,2a600b7365617263685f646973706c6179436f6e7461696e6572092d093133353630093a095f7472636964092d0931393535/Pressemitteilungen/Pressemitteilung_9d.html

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*Press release of the Federal Administrative Court on the judgment of 26 January 2011 (case no. 6 CF 2.10)*

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