

Copyright: Appeal Dismissed by the Federal Court of Justice

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In 2019, the German Federal Institute for Risk Assessment (BfR) asserted a claim for injunctive relief under the German Copyright Act after an unauthorised internet publication of its Opinion on the active ingredient glyphosate in pesticides. During the legal dispute, the Cologne Higher Regional Court dismissed the lawsuit on May 12, 2021 and did not allow the appeal (case no.: 6 U 146/20). Due to fundamental legal considerations, the BfR filed a petition against the denial of the right to appeal with the Federal Court of Justice (BGH). This highlighted the fact that it is of fundamental significance for the BfR to establish who has the right of first publication to its intellectual property, as well as further rights of use thereto. On January 27, 2022 (case no.: I ZR 84/21), the Federal Court of Justice dismissed the petition against the denial of the right to appeal as, in its view, the legal requirements had not been satisfied. Therefore, the judgement of the Cologne Higher Regional Court is no longer being reviewed and is deemed final. The court case was not about withholding information that had been known since 2015, but about the rights of publication and dissemination of a scientific document.

For further information, please refer to our press release of 20/2021. This remains valid:

https://www.bfr.bund.de/en/press_information/2021/20/loss_of_intellectual_property_through_file_access_-273048.html

About the BfR

The German Federal Institute for Risk Assessment (BfR) is a scientifically independent institution within the portfolio of the Federal Ministry of Food and Agriculture (BMEL) in Germany. The BfR advises the Federal Government and the States ('Laender') on questions of food, chemical and product safety. The BfR conducts its own research on topics that are closely linked to its assessment tasks.

This text version is a translation of the original German text which is the only legally binding version.