

MANDAT

17.07.2015

2011 EHEC CRISIS: GLEISS LUTZ HELPS FEDERAL REPUBLIC OF GERMANY SUCCESSFULLY DEFEND CLAIMS FOR DAMAGES

Gleiss Lutz has successfully represented the Federal Republic of Germany, represented by the Robert Koch-Institute, before the Higher Regional Court of Berlin in connection with the EHEC crisis in Germany: After authorities warned against the consumption of salad in the early summer of 2011, two agricultural businesses asserted official liability claims on account of sales losses for rocket (arugula). Both businesses have now withdrawn their appeals against the judgments of the Berlin Regional Court dismissing their lawsuits.

At its hearing the Higher Regional Court had indicated that it would probably dismiss the appeals. The court argued that the defendants' information and warnings had been lawful, and that no breach of official duties was identifiable. According to the court, the German government had a duty to inform the public of the risks of infection. The official announcements had also met requirements regarding objectivity and accuracy. The uncertain and constantly changing information available at the time also needed to be taken into consideration. The defendants had to weigh the risks to public health on the one hand against the drastic consequences for the agricultural business on the other, and in doing so had adequately balanced both.

Based on the Higher Regional Court's clear statements, the plaintiffs withdrew their appeals against the Regional Court's judgments, which have thus become final and binding.

Dr. Marcus Dannecker (partner) and Dr. Yvonne Kerth (both public law, Stuttgart) represented the Federal Republic of Germany.

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