

## **The Hanseatic Higher Regional Court of Bremen condemns Professor Alexander Lerchl to withdraw his falsification claim against the REFLEX-study**

Text of the judgment and report by Prof. Adlkofer

The final judgment was made in December 2020: The falsification claims against the REFLEX study may no longer be repeated. In other words: the results of the REFLEX study from 2004, that cell phone radiation has a genotoxic potential, are correct. We document the judgment text and the assessment of Prof. Franz Adlkofer, the former coordinator of the REFLEX study, on this judgment.



In 2007, Prof. Franz Adlkofer reported on the results of the REFLEX study at the Open Academy in Gelsenkirchen. From left to right: Prof. Franz Adlkofer, Prof. Josef Lutz (TU Chemnitz), Prof. em. Rainer Frentzel-Beyme (University of Bremen). Photo: diagnose: funk

***Preliminary remark diagnose: funk:*** "The reflex study is fake - cell phone radiation does not trigger tumors!" - In 2008 we read this report in the Spiegel, the Süddeutsche, in almost all of the press. Politicians calmly prayed this all-clear up and down. But we soon knew from reports from the scientists involved that the studies were being carried out properly. But at that time the power of interpretation had the mobile communications industry and the media, which did not look properly.

Little did we suspect that it would turn into a science thriller with character assassination, lawsuits and the destruction of livelihoods, which will be exposed as a scandal right away, but will not be legally concluded until 2020. One can learn from this what industry and a corrupted science can do. Now we have it official: The results of the REFLEX study are correct, the claim that they are falsified can no longer be made. ***A revision of the judgment is not permitted.***

On December 11th, 2020 the Hanseatic Higher Regional Court of Bremen announced the following [Entscheidung](#) (supplemented by diagnose: funk for better readability):

- "The defendant [= Prof. Alexander Lerchl] is convicted of avoiding a fine to be determined for each case of infringement of up to EUR 250,000 and, in the event that this cannot be recovered, of custody or of up to 6 Months to refrain from publishing and / or having published [his counterfeit allegations for the REFLEX study] with reference to the plaintiff. The defendant has to bear the costs of the proceedings. The judgment is provisionally enforceable. The amount in dispute is set at EUR 20,000. The revision is not permitted."

***The REFLEX study demonstrated:***

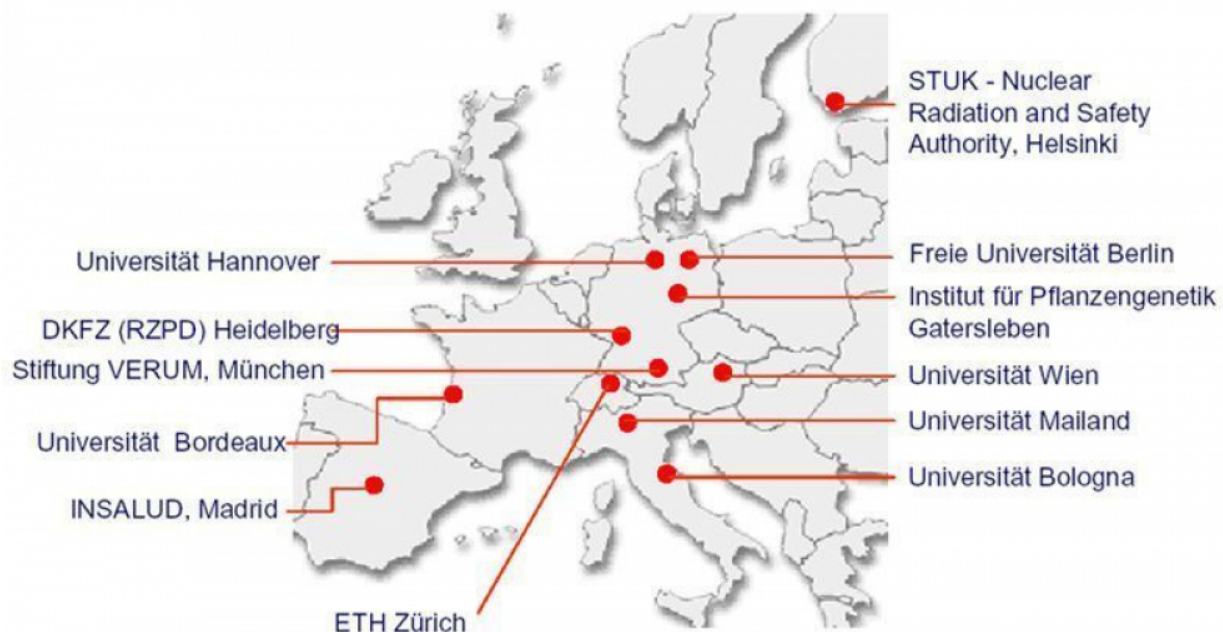
- GSM-1800 and GSM-900 change the structure and function of genes below the applicable limit value of 2 W / kg in various human and animal cells after intermittent and continuous exposure. The following effects were found:
- Increase in single and double strand breaks in DNA in human fibroblasts, HL60 cells and rat granulosa cells, but not in human lymphocytes

- Increase in micronuclei and chromosomal aberrations in human fibroblasts
- Changes in gene expression in several cell types, but especially in human endothelial cells and embryonic stem cells from mice. A significant increase in DNA strand breaks was found in human fibroblasts at an SAR value of 0.3 W / kg.

This has now been confirmed directly and indirectly by other large-scale studies, most recently by the [NTP-](#), [Ramazzini-](#), [AUVA-Studien](#) studies and many individual studies [[viele Einzelstudien](#)], confirmed in many [Reviews](#).

- In light of this judgment, we thank **Professor Franz Adlkofer** for having endured this grueling argument for 12 years.
- In light of this judgment, we urge **the media** to correct their reporting from 2008 and now to let people know what risks they expose themselves to when using the phone.
- In view of this judgment, we ask the management of the **Medical University of Vienna** to comment on the intrigue that they have approved and covered at their facility.
- In view of this ruling, we call on the **Federal Office for Radiation Protection** to cancel the commissioning of the 5G study from Prof. Lerchl after his claims about the REFLEX study were condemned as incorrect.
- In light of this judgment, we ask the **EMF portal** to change the following discriminatory passage. In the EMF summary of the REFLEX studies [Diem et al. \(2005\)](#) and [Schwarz et al. \(2008\)](#) up to now: "Information from the Medical University of Vienna from May 23, 2008: Suspicion of a faulty study by the former Department of Occupational Medicine [[Verdacht auf fehlerhafte Studie der ehemaligen Abteilung für Arbeitsmedizin](#)] and the press release Science and Ethics [[Wissenschaft und Ethik](#)] not be verified. " In a statement [[Stellungnahme](#)] from the Austrian Commission for Scientific Integrity [[Österreichischen Kommission für Wissenschaftliche Integrität](#)] dated November 23, 2010, the allegations of falsification could not be verified. "This must be supplemented and corrected with the results of this judgment.

The so-called "Viennese forgery scandal" and the "final document" [["Abschlussdokument"](#)], with which Prof. Franz Adlkofer evaluates the process, are important documents in the history of science. This scandal is one of the scandals documented by the European Environment Agency in the two volumes "Late lessons from early warnings" [["Späte Lehren aus frühen Warnungen"](#)]. That is why we are documenting Franz Adlkofer's article here in full. Anyone who wants to find out more about the history of the Viennese staging of the mobile communications industry can do so on the website <http://www.pandora-stiftung.eu>, where the dispute is documented, or in the brochure of the Competence Initiative Radiation Protection in Contradiction to Science [["Strahlenschutz im Widerspruch zur Wissenschaft"](#)] (free download), can be ordered as a brochure from [diagnose:funk shop](#).



Research network of the REFLEX study, financed by the EU.



## Documentation: Comment by Prof. Franz Adlkofer on the judgment

### ***"The Hanseatic Higher Regional Court of Bremen sentenced Professor Alexander Lerchl to withdraw his falsification allegation against the REFLEX study"***

Franz Adlkofer

#### ***The end of a long story***

The legal dispute before the Hanseatic Higher Regional Court of Bremen against Alexander Lerchl, professor of biology and ethics at the private Jacobs University in Bremen, was about the final clarification of the question of whether he can prove his assertion, which has been repeated since 2008, that the results of the The REFLEX study funded by the EU Commission from 2000 to 2004 are falsified. The finding that cell phone radiation can damage genes in isolated human cells was beyond his understanding. In order to give his claim credibility, he accused Elisabeth Kratochvil of falsification, who, as a technical assistant at the Medical University of Vienna (MUW), had made a significant contribution to the REFLEX results. His aim was twofold. On the one hand, he wanted to prevent the REFLEX follow-up study, which was highly rated by the reviewers of the EU Commission, from also being funded. With that he was successful. On the other hand, he wanted to have the REFLEX publications withdrawn from the scientific literature. With that he failed. He could not convince the editors of the specialist journals in which they had appeared of his allegation of forgery. They saw through his intentions and were not prepared to allow themselves to be used for the purposes of a lobbyist for the wireless industry, as he was already known at the time.

Although Prof. Lerchl had already been sentenced to cease and desist in 2015 by the Hamburg Regional Court together with the laboratory journal in which he portrayed Elisabeth Kratochvil in a defamatory manner as a criminal forger [1], he continued his defamation. He interpreted the judgment in the sense that the Hamburg Regional Court had only forbidden him to name the forger, but not that the REFLEX results were falsified. In the meantime, he was able to dispense with the further denigration of Ms.

Kratochvil, which for him from the beginning was only a means to an end to give credibility to his falsification allegation. This was ensured by his reports on the alleged forgery, which were still widely distributed worldwide and accessible to everyone, and which he only partially withdrew despite his conviction before the Hamburg Regional Court. Prof. Lerchl, who is now not only responsible for biology but - one is tempted to say - humorously also responsible for ethics, accepted the suffering he had done to the young technical assistant [2].

The reason for continuing the proceedings in Bremen was Prof. Lerchl's video appearance under the title "Pick Up The Phone" on YouTube and his report "Lerchl: Cell phone radiation, cable breaks and court judgments" at [www.ots.at](http://www.ots.at), Austria's press portal for the German-speaking area. On YouTube he claims: "And these studies, which are at issue, from the years 2005 and 2008, they are fabricated ... also according to the judgment of the Medical University of Vienna, which still has them available on its website as information." This refers to the publications from the MUW belonging to the REFLEX study. On [www.ots.at](http://www.ots.at) he comments on a film by Klaus Scheidsteger in which the REFLEX study is reported as follows: "The judgment [of the Hamburg Regional Court] only says that the name of a certain person is associated with the allegations of falsification that I made against the REFLEX studies may not be mentioned. The accusation of producing the results remains of course ... especially since the Medical University of Vienna is still making the accusations available online in a press release!" The MUW press releases were actually still online when the two articles appeared, but were shortly afterwards deleted by order of the new rector of the MUV because the statements contained therein are not true. Prof. Lerchl was not prepared to comply with the request by Elisabeth Kratochvil's legal representative to stop the falsification allegations in the future and to withdraw the reports because they were violating her client's personal rights and honor. Following the advice of her legal representative, she filed a lawsuit with the Bremen Regional Court on November 8, 2016.

The Bremen Regional Court dismissed Elisabeth Kratochvil's lawsuit on October 12, 2017 as unfounded [3]. The MUW press releases were still available at the time of Prof. Lerchl's statement. Since the statement in the past corresponded to the fact, there was no unlawful infringement that would induce a risk of repetition. The first complaint, "And these studies,

which are at issue, from the years 2005 and 2008, they are fabricated ..." is, according to the Regional Court, not a criminal assertion of fact, but a permissible expression of opinion. An average audience understands by "fabricated" that the studies are makeshift, amateurish, or painstakingly tinkered with. As with expressions of opinion, such an understanding would have a predominantly judgmental character. The second complaint, "The allegation of data production, of course, remains in force", according to the Regional Court, meets the criteria for an expression of opinion. In the context of a scientific discussion, such remarks are common. Elisabeth Kratochvil's legal representative considered this reasoning of the regional court to be legally erroneous because it contradicts the highest judicial rulings. She therefore urgently advised an appeal, which Elisabeth Kratochvil then submitted to the Hanseatic Higher Regional Court of Bremen on October 20, 2017.

At the appeal hearing on February 16, 2018, the presiding judge stated that the Higher Regional Court had given its own thoughts to the question of whether the prohibition "The accusation of data production remains upright" is a value judgment, ie an expression of opinion or a factual assertion. Since the text with the prohibition statement also speaks of "allegations of forgery", the meaning content can actually only be understood as an allegation of forgery. Under no circumstances should this interpretation be ruled out. In addition, the Stolpe case law of the Federal Constitutional Court asserted by Ms. Kratochvil must be taken into account. Since, with this approach, the allegations of forgery are allegations of fact, Prof. Lerchl has to bear the burden of proof for a forgery. In a ruling of March 9th, 2018, the Higher Regional Court ordered that evidence be raised about Prof. Lerchl's assertion, "that the REFLEX studies from 2005 and 2008, which were carried out with the participation of Elisabeth Kratochvil as co-author or first author, are falsified, which is From this it follows that the data shown in the studies could never come from real experiments for statistical reasons or reasons of mathematical probabilities, but only allow the conclusion that they were invented. "

The expert commissioned by the Hanseatic Higher Regional Court with the report on the suggestion of Prof. Lerchl is a German university professor for applied statistics, but without any understanding of the biological test procedure used by Ms. Kratochvil at the MUW. In his report of July 1st,

2019, he nevertheless came to the conclusion that the objections to the REFLEX results were understandable, but by no means allowed the conclusion that they were falsified. In his supplementary report of November 26th, 2019, which the court thought necessary due to the criticism of the original report submitted by Prof. Lerchl, the expert went into Prof. Lerchl's remarks in detail, but stuck to his original statement without any restriction. Prof. Lerchl's demand to reject the expert because of concerns about bias was rejected by the higher regional court. On December 11th, 2020 it announced the following decision [4]:

- **“On appeal by Elisabeth Kratochvil, the judgment of the Bremen Regional Court is changed. Prof. Lerchl is convicted of avoiding an administrative fine up to the amount of EUR 250,000 for each case of violation and, in the event that it cannot be recovered, to refrain from custody or from custody for up to 6 months, with reference to the plaintiff to publish and / or have published his allegations of falsification (see above). Prof. Lerchl has to bear the costs of the proceedings. The judgment is provisionally enforceable. The amount in dispute is set at EUR 20,000. The revision is not permitted.”**

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### **diagnose:funk video about the background of the process**

(video 25:57) War gaming for profit. Cell phone radiation, cancer risk & industrial lobbyism - September 11, 2019 by [diagnose:funk – Umwelt- und Verbraucherorganisation](https://www.youtube.com/watch?v=HNMqgLQ_xDg&feature=emb_title) : - [https://www.youtube.com/watch?v=HNMqgLQ\\_xDg&feature=emb\\_title](https://www.youtube.com/watch?v=HNMqgLQ_xDg&feature=emb_title)

### ***The lesson from history***

Since his conviction by the Hamburg Regional Court, Prof. Lerchl has tried to convert his criminally assessed factual allegations about the REFLEX study into an expression of opinion free from punishment. On December 30, 2016, he affirmed in lieu of an oath that he had only "expressed the suspicion, corroborated by expert reports, that the results of the REFLX



study ... were falsified." That this is a false statement that is popularly called perjury , he obviously accepted as someone to whom truth means little [5]. His attempt at deception at the Bremen Regional Court was still successful. The Hanseatic Higher Regional Court saw through the fraud. In order to change it in his favor anyway, he had his legal representative present the following in the final phase of the proceedings:

*"The defendant has been a nationally and internationally recognized expert in the field of research into the biological effects of magnetic fields and electromagnetic radiation for 30 years. He has over 100 peer-reviewed specialist publications in English. In 2008 he was appointed by the then Federal Environment Minister Sigmar Gabriel as Chairman of the Committee for Non-Ionizing Radiation to be a member of the Radiation Protection Commission (Annex B60, SSK Lerchl Gabriel.pdf). In 2010 he was appointed by the then Federal Environment Minister Dr. Norbert Röttgen appointed as a member of the Radiation Protection Commission for a further two years (Annex BGV SSK Lerchl Röttgen.pdf). Dr. Röttgen wrote: "I would like to take this opportunity to thank you for your excellent work so far, especially as chairman of the Committee for Non-Ionizing Radiation." In 2012, the then Federal Environment Minister Peter Altmaier (Annex B62, SSK Lerchl Altmaier.pdf) wrote: "After successful work In the Radiation Protection Commission you will leave this body at the end of the current year. I would like to thank you most sincerely for your long and dedicated work in the deliberations of the commission. "*

*The defendant was and is active in numerous advisory bodies, including the WHO. The defendant was awarded the contract for a recently publicly tendered "Policy advice report to assess the need for regulation in the transition area of the occupational health and safety ordinances to electromagnetic fields (EMFV) and artificial optical radiation (OStrV)" by the Federal Institute for Occupational Safety and Health. The defendant is therefore undoubtedly a scientifically recognized expert.*

*The findings published by the plaintiff and her co-authors on alleged damage to the genetic material (DNA) caused by mobile communications (Annexes B1 and B2) would be of great importance for all people who use a mobile phone or smartphone, since the alleged damage were real would pose an imminent threat to health and life, as DNA damage results in*

*cancer. Thus, the defendant's critical statements have an overriding public interest ”.*

After completing the legal disputes about Prof. Lerchl's handling of the REFLEX study, the following conclusions emerged:

1) The REFLEX results have wrongly lost their scientific importance due to the history of forgery invented by Prof. Lerchl and spread around the world. Because he was unable to provide evidence of the forgery, which he had been predicted several times, he was sentenced in 2015 by the Hamburg Regional Court and again in 2019 by the Hanseatic Higher Regional Court of Bremen for failing to make allegations of forgery. This justifies the requirement that the results of the REFLEX study must regain their original scientific significance. They contribute significantly to the still ongoing discussion about the biological effects of cell phone radiation.

2) On September 22nd, 2009 a workshop took place in Vienna under the title Seriöseforschung or Junk-Science, which was organized by the PR organizations of the mobile communications industry in Germany and Austria responsible for science with the aim of finally finding the REFLEX results To finish off. Prof. Emilio Bossi, President of the “Scientific Integrity” commission of the Academies of Sciences in Switzerland, was invited to give a lecture on the fatal consequences of scientific misconduct. Subsequently, Prof. Lerchl reported on a particularly bad case of fraud, namely the falsification of the REFLEX results, which he uncovered on his own. In the discussion that followed, Prof. Bossi was asked whether he was also aware of cases in which data production was only alleged in order to get rid of unpleasant research results. This was Prof. Bossi's answer: Such a procedure occurs and is particularly vile, because something of such slander always gets stuck, which could even lead to irreparable damage to the results. Of course, anyone who is guilty of such a thing - in this case Prof. Lerchl - must be treated in the same way as a forger [5].

3) Within the framework of the German Mobile Telecommunications Research Program from 2002 to 2008, no one from politics or the mobile telephony industry was supported as generously as Prof. Lerchl. He thanked them by providing the results they needed to avoid having to change the guidelines for radiation protection of the population [6]. He was

recently made available a further € 1.1 million to study the effects of 5G radiation on human cells. Presumably he will not disappoint you, so that the 5G installation, which, like the earlier generations of mobile communications, is being introduced without any prior risk assessment, can at least retrospectively be presented as harmless. Politicians have to be asked how long they want to expect the public to work with Prof. Lerchl. In Prof. Bossi's opinion he should be treated like a forger because of his handling of the REFLEX study.

However, Prof. Lerchl is not responsible for the fact that the current state of mobile radio research and the associated radiation protection of the population are extremely inadequate, but only politics, which use him to enforce their interests. His understanding of lobbying, which usually runs on the borderline between legal and illegal, is obviously broader. Nor does he shy away from criminal practices if - as in the present case - there is a good chance that their use will remain secret. In order to uncover such cases, courts are needed that are not bound by politics but by law. That was the case here. "

## ***References***

[1] Judgment of the Hamburg Regional Court

[2] <https://www.profil.at/home/rufunterdrueckung-das-sittenbild-handystudien-226363>

[3] Judgment of the Bremen Regional Court

[4] Judgment of the Hanseatic Higher Regional Court of Bremen

[5] <https://www.rubikon.news/artikel/auf-einer-wellenlange>

[6] [https://stiftung-pandora.eu/wp-content/downloads/pandora\\_doku\\_vortrag-harvard-erweitert-2012.pdf](https://stiftung-pandora.eu/wp-content/downloads/pandora_doku_vortrag-harvard-erweitert-2012.pdf)

## **Publications on the topic**

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## **WHO rejects Prof. A. Lerchl's collaboration**

Comments on the current role of the German Radiation Protection Commission

**German Download** (PDF, 267 KB) - <https://www.diagnose-funk.org/download.php?field=filename&id=62&class=DownloadItem>

diagnose:funk-Shop - <https://shop.diagnose-funk.org/Brennpunkt-SSK-WHO-lehnt-Mitarbeit-von-Prof-A-Lerchl-ab-4S-A4-Sonderdruck>

### **Author:**

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### **Content:**

Until 2011, Prof. Alexander Lerchl was a member of the German radiation protection commission and chairman of the committee for non-ionizing radiation. This made him the highest-ranking German radiation protection officer, advisor to the federal government and representative of the German state in international bodies. Now there was a one-off event in autumn 2010. The WHO rejected his admission to a commission of the IARC (International Agency for Research on Cancer) for the risk assessment of the carcinogenic potential of high-frequency electromagnetic fields.

### **Cross references:**

> WHO rejects Prof. Lerchl's collaboration [[> WHO lehnt Prof. Lerchl's Mitarbeit ab](#)]

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## **WHO takes distance from Prof. A. Lerchl**

Commentary on the current role of the German Commission on Radiological Protection

**English** [Download \(PDF, 260 KB\)](#)

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**Content:**

Prof. Alexander Lerchl is a member of the German Commission on Radiological Protection (SSK) and head of its Committee on Non-ionizing Radiation. Thus, he is the highest ranking representative for radiological protection in the area of mobile communication, advisor of the German government, and the German representative in international bodies. In autumn 2010, an unprecedented incident occurred. The WHO turned down his inclusion in a commission of the IARC (International Agency for Research on Cancer), which is to carry out a risk assessment of the carcinogenic potential of radiofrequency electromagnetic fields. An insult to Lerchl. Initially, the main reason quoted was his collaboration with the IZMF (German Informationszentrum Mobilfunk), the public relations office of the four German mobile phone operators.

**Cross references:**

> WHO rejects Prof. Lerchl's collaboration [[> WHO lehnt Prof. Lerchl's Mitarbeit ab](#)]