

Food Legislation News

No. 4 – August 2024

News from the BfR

The German Federal Institute for Risk Assessment (Bundesinstitut für Risikobewertung (BfR)) has published the following, among others:

Protection against foodborne diseases in community facilities – update:

The recommendations for catering for particularly sensitive groups of people have been updated by the BfR (press release 13/2024 of 7 May 2024, [Safe food: Protection against foodborne diseases in communal facilities - BfR \(bund.de\)](https://www.bfr.bund.de/cm/343/safe-food-protection-against-foodborne-diseases-in-communal-facilities); Leaflet: [Safe food – Especially vulnerable groups in communal facilities \(bund.de\)](https://www.bfr.bund.de/cm/343/leaflet-safe-food-especially-vulnerable-groups-in-communal-facilities)).

Natural toxins in food:

Toxins of natural origin are often chemical compounds that are formed by plants to ward off predators. Such substances are found in beans and potatoes, for example. According to survey results, consumers tend to underestimate their potential harmfulness to health, and only just under half of those surveyed were even aware of plant toxins (press release 14/2024, 15 May 2024, [Natural toxins in food: Many people are not aware of the health risks – BfR \(bund.de\)](https://www.bfr.bund.de/cm/343/natural-toxins-in-food-many-people-are-not-aware-of-the-health-risks); consumer monitor: [BfR Consumer Monitor 2024 | Special naturally occurring, plant-based toxins \(bund.de\)](https://www.bfr.bund.de/cm/343/bfr-consumer-monitor-2024-special-naturally-occurring-plant-based-toxins)).

Methyl mercury in fish and seafood:

The BfR has evaluated new data on mercury levels in fish and seafood from the BfR MEAL study (statement of 28 May 2024; in German: <https://www.bfr.bund.de/cm/343/methylquecksilber-in-fisch-und-meeresfruechten-gesundheitliche-bewertung-neuer-daten-aus-der-bfr-meal-studie.pdf>). In its corresponding press release, the BfR recommends that pregnant and breastfeeding women avoid fish species with high levels of methylmercury (in German: <https://www.bfr.bund.de/de/presseinformation/2024/17/schwangere-und-stillende-sollten-fischarten-mit-hohen-gehalten-an-methylquecksilber-meiden-315749.html>).

African swine fever (ASF):

Transmission of African swine fever via feed is unlikely, according to international research findings (press release 18/2024 of 29 May 2024; in German: <https://www.bfr.bund.de/de/presseinformation/2024/18/afrikanische-schweinepest-uebertragung-ueber-futtermittel-unwahrscheinlich-315759.html>).

Allergies – FAQ:

The BfR published the most important questions and answers on allergies on 4 June 2024 and also linked to its scientific report on the topic (<https://www.bfr.bund.de/cm/349/allergies-the-most-important-questions-and-answers-at-a-glance.pdf>, scientific report (in German): <https://www.bfr.bund.de/cm/343/allergien-hintergruende-und-fakten.pdf>).

High capsaicin content – health risks:

The BfR has summarised the effects of consuming high amounts of capsaicinoids, according to current knowledge, in a current statement (Statement 027/2024 of 21 June 2024, <https://www.bfr.bund.de/cm/349/high-capsaicin-levels-can-harbour-health-risks.pdf>). In 2023, Communication 39/2023 was issued on the dangers to children of "sharp tests of courage" (in German: <https://www.bfr.bund.de/cm/343/scharfe-mutprobe-extrem-scharfe-speisen-koennen-besonders-kindern-gesundheitlich-schaden.pdf>).

Poultry meat – kitchen hygiene also protects against antibiotic-resistant germs:

Bacteria are always present on fresh poultry meat, including antibiotic-resistant bacteria. Sufficient heat kills the bacteria. Good kitchen hygiene, which prevents the bacteria from transferring to food that is not heated before consumption, can protect against health risks (Communication 28/2024 of 21 June 2024, <https://www.bfr.bund.de/cm/349/poultry-meat-is-never-sterile.pdf>).

Moulds in food – FAQ:

Questions and answers on moulds and mould toxins in food published by the BfR on 25 June 2024 (https://www.bfr.bund.de/en/mould_in_foods_health_risks_and_how_to_avoid_them-316083.html).

BfR2GO:

Issue 1/2024 of the BfR's science magazine ("BfR2GO") has been published and is available at <https://www.bfr.bund.de/cm/364/bfr-2-go-issue-1-2024.pdf>.

EFSA Publications

The European Food Safety Authority (EFSA) has published the following, among others:

Vitamin A and β -Carotene:

In a scientific assessment, the EFSA defined a tolerable upper intake level (UL) of 3000 μ g retinol equivalents (RE)/day for adults. For children, age-dependent ULs of 600-2600 μ g RE/day were derived. No ULs could be established for β -carotene due to a lack of sufficient data. In the opinion of EFSA, there is no evidence that the intake of β -carotene through a normal diet is associated with adverse health effects. Smokers should avoid the consumption of food supplements containing β -carotene, and the use of supplemental β -carotene by the general population should be limited to the fulfilment of vitamin A requirements (<https://www.efsa.europa.eu/en/efsajournal/pub/8814>; <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2024.8814>).

Iron:

The EFSA has published an opinion on the intake of iron, according to which a maximum permitted intake level (UL) could not be determined. Instead, the use of the safe total intake specified in the opinion is recommended. For adults, this is 40 mg/day and for children, depending on age, values of 5-35 mg/day are given. It should be noted that the proposed safe intake levels do not apply to people receiving iron under medical supervision for the treatment of iron deficiency anaemia (<https://www.efsa.europa.eu/en/plain-language-summary/scientific-opinion-tolerable-upper-intake-level-iron>; <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2024.8819>).

Changes to crop protection products

Maximum residue levels (MRLs):

Regulations (EU) 2024/1314, 2024/1318, 2024/1342, 2024/1355 and 2024/1439 amended the MRLs of the following plant protection product active substances:

Benzovindiflupyr, chlorantraniliprole, deltamethrin, dithianon, emamectin, fenazaquin, mepiquat, metalaxyl, propamocarb, prothioconazole, quinclorac, spiromesifen, thiabendazole, trifloxystrobin and triflumuron.

Information on plant protection products from the BVL:

Comprehensive information on authorised plant protection products, revoked and suspended authorisations, and emergency authorisations, etc. can be found on the Federal Office of Consumer Protection and Food Safety (BVL) website at www.bvl.bund.de (https://www.bvl.bund.de/EN/Tasks/04_Plant_protection_products/01_ppp_tasks/02_ppp_AuthorisationReviewActSub/01_ppps_authorised/pp_authorised_node.html).

Further publications by the BVL

The Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit (BVL)) has published the following, among others:

Production of ice cubes in food service establishments:

In its press release dated 30 May 2024, the BVL explains how important it is to comply with the basic principles of kitchen, operational and personal hygiene so that iced soft drinks can be consumed worry-free (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2024/2024_05_30_PM_mikrobielle_Belastung_von_Eiswuerfeln.html).

Lebensmittelwarnung.de:

Germany's federal states and the BVL have revised the common consumer protection portal Lebensmittelwarnung.de, which provides information on German recalls. There is also now an app for mobile devices (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2024/07_LMWarnung-Relaunch.html).

Veterinary medicinal products:

The BVL has published an announcement on the authorisation of veterinary medicinal products and other official acts, dated 15 April 2024 (in German: [BVL - Fachmeldungen - Bekanntmachung über die Zulassung von Tierarzneimitteln vom 15.04.2023 \(bund.de\)](https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2024/07_LMWarnung-Relaunch.html)).

Sentences

ECJ - Beer = alcohol:

No alcohol, other than a grapevine product, may be added to a drink bearing the name 'aromatised wine-product cocktail', including beer (European Court of Justice (ECJ), judgment of 8 May 2024, C-216/23, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=285825&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1>).

BGH – “Klimaneutral”:

The Federal Court of Justice (BGH) has ruled that advertising with the blanket term "climate neutral" is only permissible if the advertising itself explains exactly what this term refers to. In the opinion of the BGH, explanatory information outside of the environmental advertising is not sufficient (BGH, judgement of 27 June 2024, I ZR 98/23; in German: <https://www.bundesgerichtshof.de/SharedDocs/Pressemitteilungen/DE/2024/2024138.html>).

BGH – “Cheat package” (“Mogelpackung”):

As a rule, the packaging of a product is not deemed proportionate to the quantity it contains (i.e. constitutes "cheat packaging") if it is only approximately two thirds full. This also applies to online distribution (BGH, 29th May 2024, IZR 43/23; in German: <https://www.bundesgerichtshof.de/SharedDocs/Pressemitteilungen/DE/2024/2024119.html>).

Are sausage clips part of the net weight? – Update:

The Higher Administrative Court (OVG) of North Rhine-Westphalia have decided that non-edible sausage clips and casings count towards the net weight. The lower court (VG Münster, 28 March 2023, Ref. 9 K 2549/19) had taken the view that sausage clips and casings must be deducted from the gross weight as a tare. As an appeal to the Federal Administrative Court has been authorised, the dispute is likely to continue (OVG NRW, 25. Mai 2024, Ref. 4 A 779/23 ; in German: https://www.justiz.nrw.de/nrwe/ovgs/ovg_nrw/j2024/4_A_779_23_Urteil_20240524.html).

"Zera Chardonnay Alcohol Free" = misleading packaging:

The packaging of a particular non-alcoholic drink (typical wine bottle with label and band on the neck of the bottle, mentioning the Chardonnay wine variety) suggested that it was a non-alcoholic wine. However, as the drink contained a mixture of grape seed extract, yeast extract, grape juice and additives, this presentation was deemed misleading. The manufacturer initially lodged an appeal. As this has since been withdrawn, the judgement is now legally binding (Berlin Regional Court, 19 May 2022, Ref. 52 O 273/21; in German: <https://www.vzbv.de/urteile/traubensaft-darf-nicht-fuer-alkoholfreien-wein-ausgegeben-werden>).

LG Hamburg – Use of the term "vital" (“lebensnotwendig”):

The claim "essential omega-3 fatty acids are vital as the human body cannot produce them itself" constitutes an unauthorised health claim. According to the Regional Court of Hamburg, consumers must assume that this statement is detrimental to their health if they do not regularly consume the ingredients contained in the product (LG Hamburg, 15 March 2024, Ref. 416 HKO 99/23; in German: <https://www.wettbewerbszentrale.de/lq-hamburg-zu-gesundheitsbezogenen-angaben-was-ist-lebensnotwendig/>).

"Mini Rostbratwürstchen" – no allusion to protected geographical indication:

According to a judgement by the Regional Court of Munich, the name "Mini-Rostbratwürstchen" does not constitute an unlawful allusion to the protected geographical indication "Nürnberger Rostbratwürstchen". As the information contains neither "Nuremberg" nor "Nürnberger", the court was unable to find that the product was misleading (LG München I, 13 June 2024, Ref. 33 O 4023/23, not legally binding; in German: <https://www.justiz.bayern.de/gerichte-und-behoerden/landgericht/muenchen-1/presse/2024/6.php>).

Designation "almond product" in the list of ingredients:

A mixed ingredient consisting of water and almonds may not be labelled as an "almond product" in the list of ingredients. "Almond product" is neither a prescribed nor a customary designation.

Links:

- Munich Higher Regional Court, judgement of 4 May 2024, Ref. 29 U 619/22, published in the journal ZLR, subject to a fee: (in German) https://online.ruw.de/suche/zlr/5.-Oberlandesgeri-Muenc--Mandelerzeug-Urt-vom-04.0-0544becff01709e1e3c033df3345b737?OK=1&i_ffsource=zlr&i_ffdokutyp=Rechtsprechung&i_ffcourt=OLG+M%C3%BCnchen&i_sortfl=docdatetime&i_sortd=desc&i_accuracy=2
- Lower court: Munich Regional Court I, judgement of 21 December 2021, case no. 33 O 3572/2; in German: <https://www.wettbewerbszentrale.de/lg-muenchen-mandelerzeugnis-darf-nicht-als-zutat-angegeben-werden-prozentanteil-der-enthaltenen-mandeln-muss-sich-auf-das-gesamtprodukt-beziehen/>

Miscellaneous

Olive oil:

Commission Delegated Regulation (EU) 2024/1401 amended the marketing standards for olive oil (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401401).

Additives – tartaric acid and its salts (E 334-337 and E 354):

Regulation (EU) 2024/1451 of 24 May 2024 amended the conditions of use for the additives tartaric acid (L+), sodium tartrate, potassium tartrate, sodium potassium tartrate and calcium tartrate. The regulation came into force on 16 June 2024 and applies as of 16 December 2024 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401451).

Guideline for the assessment of mayonnaise, salad cream and remoulade:

The Food Federation Germany has published a new version of the guidelines for mayonnaise, salad cream and remoulade ("Richtlinie für Mayonnaise, Salatmayonnaise und Remoulade") on their homepage (in German: <https://www.lebensmittelverband.de/de/medien/publikation/richtlinie-fuer-mayonnaise-salatmayonnaise-und-remoulade>).

Principles of the German Food Code:

The following new versions/amendments were published in the Federal Gazette (Bundesanzeiger):

- New version of guidelines for soft drinks (in German: <https://www.bundesanzeiger.de/pub/publication/TLFySbOKGN4gTt4Rmw2/content/TLFySbOKGN4gTt4Rmw2/BAnz%20AT%2016.05.2024%20B3.pdf?inline>)
- Amendment of guidelines for puddings, other sweet desserts and related products (in German: <https://www.bundesanzeiger.de/pub/publication/tnbz3BbYHWpNwBoa13x/content/tnbz3BbYHWpNwBoa13x/BAnz%20AT%2004.06.2024%20B3.pdf?inline>)

Last update: 27 June 2024

EC Alert Notifications

Following are notifications chosen from the European Rapid Alert System for Food and Feed. Considered were alerts for food, information and border rejections which arrived **between 22 May and 5 July 2024**.

Source:

https://www.bvl.bund.de/DE/Arbeitsbereiche/01_Lebensmittel/01_Aufgaben/04_Warn_und_Informationssysteme/00_Warn_und_Informationssysteme/01_RASFF/021_aktuelle_rasff_meldungen/aktuelle_meldungen_lm_box.html (in German)

Reason for Notifying	Product	Country of Origin	Notes	Number
Mycotoxins				
Aflatoxins total: 75	peanuts, pistachios, figs, dates, hazelnuts, almonds (including products)			65
	seasoning mix	Pakistan	B1: 7.4 µg/kg	1
	rice	Pakistan	B1: up 8.1 µg/kg	2
	raisins	South Africa	B1: 2.9 µg/kg; total: 3.15 µg/kg	1
	nutmeg	Indonesia	B1: 220.2 µg/kg; total: 228.7 µg/kg	1
	white corn flour	Serbia	B1: 5.21 µg/kg; total: 5.44 µg/kg	1
	durum wheat	Italy	B1: 3.2 µg/kg	1
	pearl millet flour	India	B1: 9.9 µg/kg; total: 10.86 µg/kg	1
	buckwheat	China	B1: 4.4 µg/kg	1
	baby food	Germany	B1 up 0.90 µ/kg	1
Ochratoxin A	dried figs	Turkey	up 76 µg/kg	2
	dried apricots	Turkey, Italy	4.4 µg/kg	1
	basmati rice, rice	Pakistan	up >15.00 µg/kg	2
	organic wheat flakes, organic wheat flour	Germany (partly raw material France)	up 28.28 µg/kg	2
	breakfast cereals	UK	2.45 µg/kg	1
	nutmeg	Indonesia	110 µg/kg	1
	pistachios	Turkey	13 µg/kg	1
Deoxynivalenol (DON)	gluten-free pasta	Romania	up 1,370 µg/kg	1
Fumonisin	corn flour	Serbia	up 2,656 µg/kg	2
Zearalenone	pearl barley	China	220 µg/kg	1
Heavy Metals / Other Metals				
Lead	sheep offal	UK	0.52 mg/kg	1
	kumquats	South Africa	0.26 mg/kg	1
	lovage roots	Poland	1.3 mg/kg	1
	herbal and fruit tea	Poland	0.82 mg/kg	1
	sparkling wine	Italy	0.23 mg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Cadmium	squid	Vietnam	1.5 mg/kg	1
	swordfish	Spain	0.62 mg/kg	1
	avocados	Peru	0.177 mg/kg	1
	raspberries	Netherlands	0.14 mg/kg	1
	mushrooms, truffles	North Macedonia, Irak	up 2.7 mg/kg	2
	sunflower seeds	USA	1.2 mg/kg	1
Mercury	fish / fish products	Portugal, Spain, France	up 5.93 mg/kg	9
	skimmed milk powder	Ukraine	0.010 mg/kg	1
Arsenic	catfish	Suriname	10.8 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chloroethanol	food supplement	India		2
	seasoning mixture seasoning paste, coriander powder	India		4
Benzalkonium chloride (BAC)	veal liver	Netherlands	0.33 mg/kg	1
Chlorate	pears	Belgium	2.2 mg/kg	1
Benzo(a)pyrene, PAH	smoked fish	Ghana	Benzo(a)pyrene: 3.1 µg/kg; PAH: 15.1 µg/kg	1
	spices	India	PAH: 0.073 mg/kg	1
Furan	baby food	Germany	up 41 µg/kg	2
Diethylhexylphthalate (DEHP)	basil essential oil	Vietnam	up 150 mg/kg	1
Mineral oil hydrocarbons (MOSH, MOAH)	tea	India	13 mg/kg	1
	coconut oil	unknown	MOSH: 24 mg/kg; MOAH: 5.42 mg/kg	1
Per- and polyfluorinated alkyl substances (PFAS)	cooked clam meat	Vietnam	PFOA: 3.8 µg/kg	1
	cooked prawns	Belgium	PFOS: 5.5 µg/kg	1
Acrylamide	vegetable snacks, sweet potato chips, potato chips	UK, Netherlands, Georgia	up 4,450 µg/kg	3
3-Monochloro-1,2-propanediol (3-MCPD)	chips	Turkey	up 3,830 µg/kg	1
Glycidyl esters	chips	Turkey	2,795 µg/kg	1
Pyrrolizidine alkaloids (PA)	cumin	Turkey, Italy	up 8,374 µg/kg	3
	oregano	Turkey, Greece, Belgium	up 5,381.4 µg/kg	3
	sage	Spain	512 µg/kg	1
	tea	India		1
	food supplement	UK, Netherlands	up 1,177.0 µg/kg	2

Reason for Notifying	Product	Country of Origin	Notes	Number
Tropane alkaloids	herbal tea	Albania	1 240,000 µg/kg	1
	tea	India		1
Shellfish toxins (ASP)	mussels	France		1
Histamine	fish / fish products	France, Sri Lanka, Spain	up 780 mg/kg	3
Iodine	dried seaweed	China	158 mg/kg	1
Pharmacological Active Substances				
Cannabidiol (CBD)	food supplement	Poland	CBD, CBG, CBC	1
	food supplement	Netherlands		1
	chocolate, gummy bears	Germany, Czech Rep.		3
	CBD oil	Switzerland, Luxembourg, Poland		3
	CBD products	UK		1
Hexahydrocannabinol (HHC)	confectionery, chocolate	Netherlands, Czech Rep., Germany		3
Tetrahydrocannabinol (THC)	chocolate	Germany		1
Chloramphenicol	meat of laying hens	Slovakia	0.22 µg/kg	1
1,3-Dimethylamylamine (DMAA)	food supplement	Poland		1
Gentamycine	veal c fore / hind quarter	Netherlands	1,533 µg/kg	1
Malachite green, leucomalachite green	fish	Vietnam	34.80 µg/kg (leucomalachite green)	1
Leucomalachite green	fish	Vietnam	up 1.00 µg/kg	3
Morphine alkaloids	bakery product (poppy seed roll)	Lithuania	2.154 mg/kg	1
Nitrofurans metabolites	frog`s leg	Vietnam	up 1.79 µg/kg (AOZ)	1
Paracetamol	honey paste	Turkey		1
Sulfonamides	chicken wing and leg	France	179 µg/kg (Sulfadimetoxine)	1
Sibutramine	tea, detox tea	Turkey		2
Sildenafil	honey-based products	United Arab Emirates, Malaysia		2
	honey paste	Turkey		1
	food supplement	India		1
Tadalafil	honey-based products	Malaysia		1
	honey paste	Turkey		1
Yohimbine	food supplement	USA		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Unauthorised Colours				
Sudan I	spicy sauce	Russia		1
Sudan IV	palm oil	Guinea		1
Titanium dioxide (E 171)	pastries	Ukraine, UK		2
	confectionery	USA		2
	instant drink	Syria		1
Miscellaneous				
High capsaicin content	chili flavoured noodles	South Korea	560 mg/kg	1
	spicy sauce	USA	18,759 mg/kg	1
Parasitic infestation with Anisakis	fish / fish products	Denmark, Argentina		2
GMO, not authorised	rice noodles	Vietnam		2
	organic tofu, miso paste	Austria, China		2
Foodborne disease outbreak	pickled mushrooms	Russia		1
	salami	Italy		1
	food supplement	Poland		1
Pathogenic Germs				
Salmonella total: 104	meat / meat products (including poultry)			76
	mussels	Portugal		1
	eggs, egg white	Netherlands, Italy		4
	basil, dried chili, curcuma powder, curry powder	Egypt, Spain, China, India, Turkey		5
	salads, red onions	France, Egypt		2
	sesame / sesame products	Turkey, Egypt, Uganda, Nigeria, Sudan, India		12
	almond flour, sunflower seeds, coconut flakes	Spain, Bulgaria, Philippines		4
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	Ireland, Northern Ireland, Brazil, Croatia, Spain		5
	fish / fish products	Ireland, Norway, Poland, Romania, Germany		6
	raw milk butter, herbal butter	Belgium, Netherlands		2
	gorgonzola-mascarpone, mozzarella, raw milk cheese, goat's cheese	Italy, France		5
	chocolate eclair	France		1

Reason for Notifying	Product	Country of Origin	Notes	Number
	salads	France		2
	sandwich	Italy		1
<i>Bacillus cereus</i>	tempeh, mascarpone. chilli sauce	Denmark, Italy, China		3
<i>Clostridium perfringens</i>	cinnamon	Vietnam		1
Shiga toxin-producing E.coli (STEC)	beef, beef products	Brazil, Argentina, Netherlands		3
	deer	UK		2
	sheep carcass	Belgium		1
	raw goat`s milk cheese	France, Ireland		2
	organic pumpkin seeds	Poland		1
	organic buckwheat flour	Slovenia		1
Staphylococcus coagulase-positive	lasagne bolognese	Austria		1
<i>Vibrio cholerae</i> , <i>Vibrio parahaemolyticus</i>	shrimps	Ecuador, Vietnam		3
Hepatitis A Virus	oysters	France		1
Norovirus	oysters	Netherlands, France		7
	frozen strawberries	Egypt		1

Created:
 Susanne Ermert-Knauf
 Eurofins Analytik GmbH
 Neuländer Kamp 1
 D-21079 Hamburg
SusanneErmert-Knauf@eurofins.de

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