

Food Legislation News

No. 2 – April 2023

Sentences

Federal Administrative Court (BVerwG) – Indication of the weight and number of pieces for pre-packed confectionery:

According to the provisions of the Food Information Regulation (Reg. (EU) No. 1169/2011, LMIV), the total fill quantity and the number of individual packages must be indicated on packages containing several individual packs. This provision must also be applied if the packaging contains several pieces individually wrapped in candy wrappers or wrapped in a similar manner (BVerwG, Press Release No. 19 dated 9 March 2023, <https://www.bverwg.de/pm/2023/19> (in German), and for the previous instance see also [Food Legislation News No. 1/2022](#)).

ECJ – in vitro mutagenesis, GMO Directive:

Regulation 2001/18/EC dated 12 March 2001 includes provisions regarding the intended release of genetically modified organisms (GMOs). Certain processes or methods of mutagenesis are not covered by the scope of application of the GMO Directive (exception). The European Court of Justice (ECJ) ruled on 25 July 2018 (ECJ Press Release No. 111/18, Case C-528/16) that only organisms obtained by processes/methods of mutagenesis that have been traditionally used in a number of applications and have long been considered safe come under the exception.

In its judgment of 7 February 2023, the ECJ now substantiated the status of in vitro random mutagenesis with regard to the GMO Directive: "Organisms obtained by the in vitro application of a technique/method of mutagenesis which has conventionally been used in a number of in vivo applications and has a long safety record with regard to those applications are excluded from the scope of that directive" (Press Release No. 22/23 of 7 February 2023, Case C-688/21). Certain in vitro applications of mutagenesis thus come under the exemption of the GMO Directive.

Links:

C-528/16: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-07/cp180111en.pdf>

C-688/21: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-02/cp230022en.pdf>

News from the BfR

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

Allergen labelling of wheat species:

According to the provisions of the Food Information Regulation (LMIV), when spelt is used, the list of ingredients must clearly refer to "wheat". The designation "spelt" is not sufficient. The BfR has now assessed the relevance of labelling spelt as wheat. According to the results of a telephone survey, the

BfR found that the population's level of knowledge about spelt is low. Not all respondents were aware that spelt is a type of wheat. Furthermore, since spelt is expected to have a similar allergenicity as commercial wheat, the BfR considers it advisable to clearly indicate that spelt is a type of wheat in the compulsory allergen labelling. In this context, it is recommended to be guided by a statement of the Working Group of Food Chemistry Experts from the German Federal States and the Federal Office of Consumer Protection and Food Safety (Arbeitskreis Lebensmittelchemischer Sachverständiger der Länder und des Bundesamtes für Verbraucherschutz und Lebensmittelsicherheit (ALS)) from 2019, which mentions the claim "spelt flour (a type of wheat)" as an example. However, the BfR considers the claim "spelt flour (spelt wheat)" mentioned there to be less suitable, as consumers may not know what spelt wheat is. According to reports on Lebensmittelklarheit.de (as of 27 June 2022), the designation "spelt wheat" recommended by the European Commission in 2017 is considered contradictory and can lead to uncertainty. Therefore, the BfR considers the indications "spelt flour (a type of wheat)", "spelt (a type of wheat)" or "flour from spelt (a type of wheat)" to be the most comprehensible for consumers.

Links:

- BfR Statement No. 001/2023 dated 13 January 2023: <https://www.bfr.bund.de/cm/349/spelt-can-also-trigger-allergies-low-level-of-public-knowledge-about-spelt-being-a-type-of-wheat.pdf>
- ALS Resolution 2019/59, 113th Conference (in German): https://www.bvl.bund.de/SharedDocs/Downloads/01_Lebensmittel/ALS_ALTS/ALS_Stellungnahmen_113_Sitzung_2019.pdf?blob=publicationFile&v=3
- Announcement of the Commission as of 13 July 2017: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC1213\(01\)&from=FI](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC1213(01)&from=FI)
- Food clarity regarding "spelt" (in German): <https://www.lebensmittelklarheit.de/informationen/erlaubt-allergenkennzeichnung-dinkelweizen-bei-lebensmitteln-aus-dinkel>

BfR statements regarding sweeteners:

In its communication no. 007/2023 of 7 February 2023, the BfR has compiled an overview of its statements on sweeteners (in German: <https://www.bfr.bund.de/cm/343/bfr-stellungnahmen-zu-suessungsmitteln.pdf>).

Refrigerating food in private households - FAQ:

The BfR compiled a question-and-answer catalogue on the correct temperatures and the handling of food during transport and storage. (https://www.bfr.bund.de/en/correct_cooling_frequently_asked_questions_on_refrigerating_foods_in_private_households-310021.html).

Liquorice consumption during pregnancy:

The BfR evaluated a Finnish observational study in which the children of mothers who had consumed more than 250 g of liquorice per week during pregnancy were compared with the children of mothers with lower liquorice consumption during pregnancy. The BfR concluded that the data from the study are not suitable for making statements about a possible causal relationship between the mothers' liquorice consumption and the later mental and physical development of their children (<https://www.bfr.bund.de/cm/349/does-the-consumption-of-liquorice-by-pregnant-women-impair-the-mental-and-physical-development-of-children.pdf>).

MEAL nutrition study - results:

First results of the MEAL study by BfR are available as a public use file. For each substance investigated in the prepared foods, content data and information on the analytical method are listed (Press Release 02/2023 of 15 February 2023, https://www.bfr.bund.de/en/press_information/2023/02/results_of_the_meal_study_by_the_german_federal_institute_for_risk_assessment_accessible_now-310058.html).

Consumer monitor – raw food:

Health risks associated with raw foods are often underestimated. The results of the representative survey of the population are published in the brochure "BfR Consumer Monitor Special Raw Food" (Press Release 03/2023 of 21 February 2023, in German: https://www.bfr.bund.de/de/presseinformation/2023/03/rohe_lebensmittel_gesundheitliche_risiken_werden_haeufig_unterschaetzt-310091.html).

EFSA publications

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

Copper:

The existing health-related reference values for copper were reassessed. EFSA derived a new ADI (Acceptable Daily Intake) for copper of 0.07 mg/kg body weight and day (previous value: 0.15 mg/kg bw). Further information can be found at <https://www.efsa.europa.eu/de/efsajournal/pub/7728#>.

Selenium:

The tolerable upper intake level (UL) for selenium has been reduced from 300 µg/day to 255 µg/day (adult value). For more details, see <https://www.efsa.europa.eu/de/efsajournal/pub/7704>.

Modifications regarding pesticides

Maximum residue levels (MRL):

With the Regulations (EU) 2023/127, 2023/128, 2023/129, 2023/147, 2023/163, 2023/173, 2023/198, 2023/334 and 2023/377, the MRL of the following pesticide active agents were modified:

Abamectin, acequinocyl, azoxystrobin, benalaxyl, benzalkonium chloride, bromoxynil, chlorpropham, chlorsulfuron, clothianidin, cycloxydim, cyflumetofen, cyfluthrin, cyromazine, didecylmethyl-ammonium chloride (DDAC), DDT, epoxiconazole, fenamiphos, flutriafol, metazachlor, 1-methyl-3-(trifluoromethyl)-1H-pyrazole-4-carboxamide (PAM), metobromuron, sodium aluminium silicate, nicotine, oxathiapiprolone, penthiopyrad, profenofos, prosulfocarb, quizalofop-P, sedaxane, thiabendazole, thiamethoxam, topramezone, triadimenol, triflumizole and valifenalate.

Information on pesticides from the BVL:

Extensive information on approved pesticides, revoked and suspended approvals as well as on emergency approvals, for example, can be obtained on the homepage of the Federal Office of Consumer Protection and Food Safety (BVL) 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/ppp_authorised_node.html).

Other publications of the BVL

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

Recalls – annual statistics 2022:

On its homepage, the BVL published the annual statistics regarding the recalls of 2022 (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2023/2023_01_PM_Statisitk_2022_LMW.html).

G@ZIELT annual report 2021:

The annual report 2021 of the Joint Central Office "Control of Food, Feed, Cosmetics, Consumer Products and Tobacco Products traded on the Internet" (G@ZIELT) was published and is available at https://www.bvl.bund.de/SharedDocs/Downloads/01_Lebensmittel/Internethandel/Annual-Report_2021_G@zielt.pdf?__blob=publicationFile&v=2.

"Trend report zoonoses" 2021:

The BVL published a national trend report on zoonoses for the reporting year 2021 (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldungen/01_lebensmittel/2023/2023_02_28_Trendbericht_Zoonosen_Berichtsjahr2021.html).

Veterinary drugs:

The BVL published the announcement regarding the approval of veterinary drugs and other official acts as of 31 January 2023 (in German: https://www.bvl.bund.de/SharedDocs/Downloads/05_Tierarzneimittel/Bekanntmachungen/2023_02_22_Bekanntmachung_BAnz.html?nn=11031612).

Miscellaneous

Arsenic:

With Regulation (EU) 2023/465 dated 3 March 2023, additional maximum levels for inorganic arsenic in certain foods were stipulated (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0465&from=EN>).

Additives:

The following additives were newly approved:

- Carbomer (E 1210) in food supplements (Regulation (EU) 2023/440, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0440&qid=1678902165338&from=EN>)
- Glycosylated steviol glycosides (E 960d) as sweeteners (Regulation (EU) 2023/447, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0447&qid=1678902404567&from=EN>).

Modification of the extraction solvent guideline:

With Guideline (EU) 2023/175 dated 26 January 2023, 2-methyloxolane was approved as an extraction solvent. The Member States need to transpose the directive within two years into national law (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023L0175&qid=1678902949938&from=EN>).

Vinegar and vinegar essence:

On 6 February 2023, the new version of the Ordinance on the Marketing of Vinegar and Vinegar Essence was published (Federal Law Gazette I No. 31, in German: <https://www.recht.bund.de/bgb/1/2023/31/VO>). Instead of the words "Essig und Essigsäure" (vinegar and acetic acid), the heading now contains "Essig und Essigessenz" (vinegar and vinegar essence).

Nutri-Score, monitoring:

RAL gGmbH (RAL) will be responsible for monitoring the trademark regulations of the Nutri-Score in Germany (Press Release BMEL of 22 February 2023, in German: <https://www.bmel.de/SharedDocs/Pressemitteilungen/DE/2023/021-nutriscore.html>).

Vanilla flavours – basic paper LChG:

The "flavourings" and the "stable isotope analysis" working groups of the Food Chemistry Society (Lebensmittelchemische Gesellschaft (LChG)) of the Society of German Chemists (Gesellschaft Deutscher Chemiker (GDCh)) published a basic paper „Vanillearomen – Herkunft, Analytik und Charakterisierung der Vanillebestandteile“ (Vanilla flavours - origin, analytics and characterisation of vanilla components) in 2022 (<https://en.gdch.de/network-structures/gdch-structures/society-of-food-chemistry/working-groups/flavorings.html>).

Guidelines for fruit juices and fruit nectars:

On 28 February 2023, the new version of the guidelines for fruit juices and fruit nectars was published in the Federal Gazette (in German: <https://www.bundesanzeiger.de/pub/publication/G6PQ57T1zo9IPRNzJ9s/content/G6PQ57T1zo9IPRNzJ9s/BAanz%20AT%2028.02.2023%20B2.pdf?inline>).

Guideline for soups and sauces:

The Food Federation Germany (Lebensmittelverband Deutschland) published a new version of the "Guideline for the assessment of soups and sauces" (in German: <https://www.lebensmittelverband.de/de/medien/publikation/richtlinie-beurteilung-suppen-sossen>).

Last update: 9 March 2023

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 21 January and 16 March 2023**.

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: 35	peanuts, figs, pistachios, hazelnuts, almonds, melon kernels (including products)			27
	rice	India, Pakistan	B1: up 12 µg/kg	4
	halva	Turkey	B1: 15 µg/kg	1
	sesame seeds	Pakistan	B1: 5.3 µg/kg	1
	soy chunks	India	B1: 7.6 µg/kg; total: 9.2 µg/kg	1
	nutmeg	Indonesia	B1: 17.6 µg/kg; total: 20.7 µg/kg	1
Ochratoxin A	organic rye	Germany	10.1 µg/kg	1
	rice	India	24 µg/kg	1
	dried figs	Turkey	up 35.6 µg/kg	3
	raisins	Turkey, Uzbekistan	up 91 µg/kg	2

Reason for Notifying	Product	Country of Origin	Notes	Number
	pistachios	USA, Turkey	up > 500 µg/kg	2
	sunflower seeds	China	14.5 µg/kg	1
	nutmeg	Indonesia	up 160 µg/kg	4
	nigella seeds	Turkey		1
	soy chunks	India	97.6 µg/kg	1
Patulin	apple puree, apple sauce	France, Netherlands	up 36.34 µg/kg	2
Heavy Metals / Other Metals				
Lead	salted beef casings	Egypt	0.953 mg/kg	1
	quince juice	Germany	0.104 mg/kg	1
	food supplement	Austria, India	up 12.7 mg/kg	2
Cadmium	fish	Philippines	0.40 mg/kg	1
	seafood mix	China	up 2.65 mg/kg	2
	horse meat	Poland	769.6 µg/kg	1
	mushrooms, garlic, leek, kidney beans	Netherlands, China, Belgium	up 0.11 mg/kg	4
	risotto rice	Italy	0.23 mg/kg	1
	cocoa	Colombia	2.7 mg/kg	1
Mercury	fish / fish products	Spain, Mexico, Norway	up 4.8 mg/kg	4
Aluminium	glass noodles	Vietnam	186 mg/kg	1
	quince juice	Germany	15.1 mg/kg	1
	food supplement	Austria	37,100 mg/kg	1
Zinc	food supplement	unknown	47 mg/dosage	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chloroethanol	food supplement	Netherlands, India		2
	Boswellia Serrata	Belgium		1
	spice mixes, cinnamon powder, coriander seeds, cumin seeds	India, Pakistan		9
	salsa dips	Mexico		2
	ready meals	India		2
	pullulan capsules	Netherlands		1
Benzalkonium chloride (BAC)	mixed salad	Italy	0.30 mg/kg	1
Chlorate	fish / fish products	Vietnam, Yemen	up 0.26 mg/kg	3
	green paprika	Spain	0.91 mg/kg	1
Diethylhexylphthalate (DEHP)	pesto sauces	Italy	up 0.64 mg/kg	3
Benzo(a)pyrene, PAH	green jalapenos	China	Benzo(a)pyrene: 21.2 µg/kg; PAH: 192.7 µg/kg	1
	rapeseed oil	Ireland	Benzo(a)pyrene: 11.3 µg/kg; PAK: 33.3 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
	dried dill	Egypt	Benzo(a)pyrene: 83.4 µg/kg	1
	organic baby chocolate biscuits	Belgium	PAH: 2.45 µg/kg	1
	dried green pepper	China	PAH: 79.2 µg/kg	1
Mineral oil	Rice	Pakistan	0.71 mg/kg	1
	potato crisps	Romania	1.6 mg/kg	1
	Cloves	Madagascar	4.4 mg/kg	1
	sultana raisins	Iran	397 mg/kg	1
Acrylamide	Vegetable crisps, chips	Netherlands, USA	up 14,155 µg/kg	2
	Biscuits	Bosnia and Herzegovina, Kosovo	up 920 µg/kg	2
3-Monochloro-1,2-propanediol (3-MCPD)	Glycerine	Thailand	0.16 mg/kg	1
	wafers with filling	Jordan	3,946 µg/kg fat	1
Glycidyl esters	palm oil	Indonesia	2,900 µg/kg	1
	wafers with filling	Jordan	4,273 µg/kg fat	1
Pyrrolizidine alkaloids (PA)	cumin seeds	Turkey, Syria, India, Belgium	up 16,596 µg/kg	4
	Borage	Italy	> 59,999 µg/kg	1
	licorice root grinded	France	1,558 µg/kg	1
	Oregano	unknown		1
	camomille tea	France	2,470 µg/kg	1
	ginkgo biloba extract	France	702 µg/kg	1
Shellfish poisoning toxins (ASP)	Mussels	France	64.45 mg/kg (Domoic acid)	1
Histamine	fish / fish products	Spain, Sri Lanka	up 2,868 mg/kg	4
Cyanide	Linseed	Turkey, Canada, Kazakhstan	up 300 mg/kg	3
	food supplement	Czech Rep.	59.1 mg/dosage	1
Iodine	dried seaweed	Hong Kong, Netherlands		2
Pharmacological Active Substances				
Chloramphenicol	calf liver, poultry meat	Brazil, UK	up 0.18 µg/kg	3
Huperzine A	food supplement	UK, USA		2
Cannabidiol (CBD)	CBD drops, CBD oil	Austria, France, Slovenia		3
	Candies	Austria		1
	soft drinks	France		1
	food with CBD	Czech Rep.		1

Reason for Notifying	Product	Country of Origin	Notes	Number
	food supplement	Austria, Netherlands, Germany		5
	various products	UK		1
Tetrahydrocannabinol (THC)	food supplement with CBD	Austria	up 506 mg/kg	2
Leukomalachite green	Fish	Vietnam	2.77 µg/kg	1
Tetracyclines	poultry meat	Poland	Doxycycline: 242.0 µg/kg	1
Sildenafil	food supplement	China		1
	honey products	unknown		1
Nortadafafil	food supplement	Estonia		1
Tadalafil	food supplement	China		1
Unauthorised Colours				
Rhodamine B	chili powder	Bangladesh		1
Orange II	herbal liqueur	Serbia		1
Sudan IV	palm oil	Ghana		1
Titanium dioxide (E 171)	sweets, instant drinks, food supplement, surimi	Russ. Federation, China, Lebanon, UK, Thailand		7
Miscellaneous				
Parasitic infestation with Anisakis	Fish	Spain, Morocco		3
Foodborne disease outbreak	oysters, mussels	Netherlands, France, Sweden		6
Pathogenic Germs				
Salmonella total: 80	meat / meat products (including poultry)			40
	Eggs	Netherlands		1
	Shrimps	Bangladesh		1
	Mussels	Italy, Canada, Netherlands		4
	sesame / sesame products	Nigeria, India, Egypt, Sudan, Turkey		21
	halva	Egypt		1
	betel leaves	India	multiresistant	1
	black pepper	Brazil		3
	dill, parsley, bay leaves, paprika powder, thyme, annatto seeds	Egypt, Turkey, Czech Rep., Cote d'Ivoire		6
	Mu err mushrooms	Vietnam		1
	ground melon seeds	Ghana		1
<i>Listeria monocytogenes</i>	fish / fish products	Norway		1
	meat / meat products (including poultry)	Italy, France, Belgium, Germany, Poland		6
	cheese, crumbled blue cheese, raw milk cheese, goat's cheese	Denmark, France, Croatia		6

Reason for Notifying	Product	Country of Origin	Notes	Number
Shigatoxin producing E.coli (STEC)	beef tenderloin, beef tartar	Argentina, Poland		2
	raw milk cheese	France		1
<i>Campylobacter</i>	chicken mid wings, poultry meat	Poland		2
Coagulase-positive staphylococci	Pasta	Italy		1
	vegetable dumplings	Bulgaria		1
<i>Vibrio cholerae</i>	shrimps	Ecuador		1
Norovirus	oysters, mussels	France, Italy, Spain		14
	iceberg lettuce	Italy		1

Created:

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

Date of publication: 24 April 2023

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