

Food Legislation News

No. 2 – April 2024

EFSA publications

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

Inorganic arsenic:

The EFSA published an update of the risk assessment of inorganic arsenic. According to this, consumer exposure to inorganic arsenic in food gives rise to health concerns (News of 18 January 2024, <https://www.efsa.europa.eu/en/news/inorganic-arsenic-food-health-concerns-confirmed>).

Polybrominated diphenyl ethers (PBDE) in food:

Polybrominated diphenyl ethers were used as flame retardants in various materials, e.g. furniture, building materials, electronic components, etc. PBDEs are persistent and accumulate in the food chain due to their fat solubility. In the update of its risk assessment, which was published on 24 January 2024, the EFSA concludes that the current intake of PBDEs via food poses a health risk (<https://efsa.onlinelibrary.wiley.com/doi/10.2903/j.efsa.2024.8497>).

News from the BfR

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

Lectins in plant-based foods:

Numerous plant foods contain substances known as "lectins", which serve to protect plants against diseases and pests. However, the intake of lectins can be harmful to human health. Since lectins are killed by heat, the BfR recommends that pulses in particular should be sufficiently heated before consumption (Statement No. 003/2024 and Press Release 02/2024 of 23 January 2024, in German: <https://www.bfr.bund.de/cm/343/lektine-in-pflanzenbasierten-lebensmitteln-gibt-es-ein-gesundheitliches-risiko.pdf>; https://www.bfr.bund.de/de/presseinformation/2024/02/krank_durch_lektine_in_pflanzenkost-314318.html).

Smoke flavours – FAQ:

On 31 January 2024, the BfR published its catalogue of questions and answers regarding smoke flavours in a revised version (https://www.bfr.bund.de/en/smoke_flavourings_in_food-201317.html).

The terms "hazard" and "risk" – FAQ:

The BfR has illustrated the difference between the terms "risk" and "hazard", which is important for health risk assessment, in a catalogue of questions and answers with examples (FAQ of 9 February 2024, https://www.bfr.bund.de/en/why_a_tiger_is_a_hazard_but_not_necessarily_a_risk_the_difference_between_risk_and_hazard-314625.html; https://www.bfr.bund.de/cm/429/07_hazard_or_risk.pdf).

PFAS – residues in fruit and vegetables:

Residues of pesticides with perfluorinated and polyfluorinated alkyl substances (PFAS) as active agents may be detectable in foodstuffs even when used properly. This is taken into account when determining the maximum residue levels. If these pesticides are used as intended, no adverse health effects are, therefore, to be expected (Communication 012/2024 of 29 February 2024, <https://www.bfr.bund.de/cm/349/residues-of-plant-protection-products-with-pfas-active-ingredients-in-fruit-and-vegetables-is-there-a-health-risk.pdf>).

Phthalate - softeners – FAQ:

Questions and answers on phthalate softeners were compiled by the BfR and published on 1 March 2024 (updated 28 March 2024: https://www.bfr.bund.de/en/questions_and_answers_about_phthalate_plasticisers-315248.html).

Modifications regarding pesticides

Maximum residue levels (MRLs):

With the regulations (EU) 2024/246, 2024/331, 2024/341, 2024/342, 2024/344, 2024/345, 2024/347, 2024/352, 2024/376, 2024/398 and 2024/451, the MRLs of the following pesticide active agents were modified:

Acrinathrin, azimsulfuron, cyflumetofen, desmedipham, diethofencarb, difenacoum, etridiazole, famoxadone, fenoxycarb, fipronil, flurtamone, flutriafol, haloxyfop, indoxacarb, potassium permanganate, mandipropamide, sodium hypochlorite, nicotine, oxamyl, oxathiapiprolin, pencycuron, prochloraz, profoxydim, pyraclostrobin, *Pythium oligandrum* strain M1, *Trichoderma atroviride* strain AGR2 and *Trichoderma atroviride* strain AT10, (Z)-13-hexadecen-11-yn-1-yl-acetate and (Z,Z,Z,Z)-7,13,16,19-docosatetraen-1-yl-isobutyrate.

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).

Further publications of the BVL

The Federal Office of Consumer Protection and Food Safety (BVL) released, amongst others, the following information:

Food recalls in 2023:

According to the annual statistics published by the BVL, 308 recalls were reported on the www.Lebensmittelwarnung.de portal in 2023. Almost a third of these were caused by microbiological contamination. With 35 reports, salmonellae were the most common cause (Press Release from 1 February 2024, in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2024/02_LMWarnungen.html).

National trend report on zoonoses 2022:

The zoonoses trend report published by the BVL for the year 2022 refers to the zoonoses and zoonotic agents listed in Annex I, Part A of Directive 2003/99/EC that are subject to monitoring. The most common food-borne zoonoses in Germany included campylobacteriosis, salmonellosis and yersiniosis (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldungen/01_lebensmittel/2024/2024_02_12_Trendbericht_Zoonosen_Berichtsjahr2022.html).

Sentences

ECJ – "Halloumi" (PDO):

The name "Halloumi" for grilled cheese originating from Cyprus continues to be a protected designation of origin (PDO). The General Court of the European Union dismissed the action against the registration of the name "Halloumi" on 21 February 2024 (Case T-361/21, <https://curia.europa.eu/jcms/upload/docs/application/pdf/2024-02/cp240031en.pdf>).

Muesli – fatigue claim not permitted:

The claim "This (...) muesli contains magnesium, which helps to reduce tiredness and fatigue" is inadmissible if the magnesium content per serving is not at least 15% of the recommended daily dose (Bochum Regional Court, 6 December 2023, Ref. I-13 O 51/23, not legally binding, in German: <https://www.vzbv.de/urteile/erfolgreiche-klage-gegen-dr-oetker-muesliversprechen-unzulaessig>).

Shrinkflation - lower filling quantity with unchanged pack size:

The Hamburg Regional Court has prohibited a company from selling its margarine with a reduced filling quantity in the same packaging size without a clear indication of this reduction (Judgment of 13 February 2024, Ref. 406 HKO 121/122, in German: <https://www.lebensmittelklarheit.de/news/ploetzlich-weniger-drin-gericht-verbietet-trickserei-mit-fuellmenge>).

Claims "...less sugar", "...less fat", "perfect for any diet" are inadmissible for baking mixes:

The claims "95% less sugar" and "70% less fat" in the advertising for a brownie baking mix are misleading as no comparative information was provided. The claim "perfect for any diet" is also misleading as the product does not have this property (Hamburg Regional Court, 23 February 2024, Ref. 315 O 175/22, not legally binding, in German: <https://www.verbraucherzentrale.nrw/urteilsdatenbank/gesundheitspflege/lq-hamburg-verbietet-werbung-mit-einem-vergleich-ohne-bezugsgroesse-92912>).

Rum - inadmissible claim "without sugar":

On 12 December 2023, the Regional Court of Frankfurt am Main prohibited an online retailer from advertising a rum with an alcohol content of 40% vol. with the claim "without sugar". This claim is a nutritional claim, which is not permitted for drinks with an alcohol content of more than 1.2% vol. (Ref. 3-06 O 12/23, not final, in German: <https://www.wettbewerbszentrale.de/lq-frankfurt-am-main-ohne-zucker-werbung-fuer-rum-unzulaessig/>).

Miscellaneous

Additives:

- Regulation (EU) 2024/346 of 22 January 2024 authorised trimagnesium dicitrate (E 345 (ii)) for use in food supplements (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400346).

- Changes regarding the designation of food categories of alcoholic beverages and the deletion of the use of E 353 in alcoholic beverages with an alcohol content of less than 15% were published in Regulation (EU) 2024/374 of 24 January 2024 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400374&qid=1710938503075).

- With the delegated Regulation (EU) 2024/585 of 8 December 2023, specific rules for the indication and designation of the ingredients of aromatised wine products were defined. The regulation came into force on 18 February 2024 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400585&qid=1710939860257).

Modifications regarding flavours:

- Regulation (EU) 2024/234 of 15 January 2024 removed various flavouring substances from the Union List (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400234&qid=1710940377981).
- Regulation (EU) 2024/238 of 15 January 2024 introduced restrictions on the use of certain flavouring substances (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400238&qid=1710941375705).

Food supplements:

The novel food "iron hydroxide adipate tartrate (nano)" was authorised as a source of iron in food supplements by Regulation (EU) 2024/248 of 16 January 2024 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400248&qid=1710944148627).

Radioactivity:

With the Implementing Regulation (EU) 2024/256 of 17 January 2024, the import regulations for food and feed originating in third countries following the accident at the Chernobyl nuclear power plant were modified (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400256&qid=1710945035020).

Guidelines of the German Food Code:

The amendment to the guidelines for vegetable products was published in the Federal Gazette on 15 February 2024 (in German: <https://www.bundesanzeiger.de/pub/publication/Pqp41JgaSdcqEruTiXf/content/Pqp41JgaSdcqEruTiXf/BAnz%20AT%2015.02.2024%20B3.pdf?inline>). In addition to various adjustments, the amendment also includes the new inclusion of tomato products, artichoke hearts and olive products.

Last update: 6 March 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 24 January and 19 March 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: 81	peanuts, pistachios, figs, almonds, brazil nuts (including products)			75
	spicy nuts	unknown	B1: 28.5 µg/kg; total: 30.6 µg/kg	1
	basmati rice, rice, rice flour	Pakistan, Cambodia	B1: up 12.5 µg/kg; total: up 13.30 µg/kg	4
	corn flour	Togo	B1: 123 µg/kg; total: 139 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Ochratoxin A	dried figs	Turkey	up 24.0 µg/kg	3
	sultanas	Turkey	14 µg/kg	1
	dried mulberries	Turkey	4.2 µg/kg	1
	coffee	Belgium	7.9 µg/kg	1
	soybeans	Canada	12.3 µg/kg	1
	pistachios, pistachio powder	Iran, France	up 16 µg/kg	2
Alternaria toxins	sesame paste	unknown (via Netherlands)		1
Deoxynivalenol (DON)	corn	South Africa	1,900 µg/kg	1
Fumonisin	corn flour	Italy, Togo	up 2,140 µg/kg	1
Patuline	smoothies	Poland	up 10,500 µg/kg	1
Heavy Metals / Other Metals				
Lead	sheep livers	UK	0.32 mg/kg	1
	salami	Italy	up 1.0975 mg/kg	2
	cinnamon	Vietnam	2.9 mg/kg	1
Cadmium	squid, octopus, cuttlefish, mussels	Italy, Spain, India, Albania, Chile	up 1.9573 mg/kg	5
	avocados	Dominican Rep.	0.311 mg/kg	1
	mangosteen	Indonesia	0.043 mg/kg	1
	rambutan	Vietnam	0.063 mg/kg	1
	asparagus	Peru	0.079 mg/kg	1
	rawit pepper	Morocco	0.021 mg/kg	1
Mercury	fish / fish products	Spain, Senegal, Italy	up 3.9 mg/kg	11
	lobster	UK	0.73 mg/kg	1
	cinnamon	Vietnam	up 0.044 mg/kg	1
Copper	beef liver	Poland	86 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chloroethanol	food supplement	China, India		2
	bay leaves	Turkey		1
	rice	Thailand		1
	chia seeds	France		1
Chlorate	fish	China, Indonesia	up 0.40 mg/kg	2
	sesame seeds	United Arab Emirates, Nigeria	up 0.54 mg/kg	4
Furan	baby food	Germany, Switzerland	up 69 µg/kg	3
Mineral oil hydrocarbons	fava bean protein isolate	Croatia	MOAH: 237 mg/kg	1
	roasted coffee	Ethiopia	MOAH: up 8.8 mg/kg	1
	palm mid fraction	Denmark	MOAH: 280 mg/kg	1
	palm oil	UK	MOAH: 3.03 mg/kg	1
	vanilla powder	Madagascar	MOAH: 2.8 mg/kg	1
	olive pomace oil	Italy	MOSH: >200 mg/kg; MOAH: >50 mg/kg	1
	couverture dark chocolate	Belgium	MOSH: 37.5 mg/kg	1
	chickpea flour	UK	MOAH: 0.80 mg/kg	1
	rice	India	MOSH: 27.80 mg/kg; MOAH: 15.4 mg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Per- and polyfluorinated alkyl substances (PFAS)	canned fried baby clams	Thailand	PFOA: up 12 µg/kg	2
	dried shrimps	Thailand	PFNA: 1.9 µg/kg	1
Phthalates	pesto	Italy	DEHP: 0.212 mg/kg	1
	basil essential oil	Vietnam	DEHP: >5.0 mg/kg	1
	food supplement	Belgium and Germany	DBP: up 4.4 mg/kg	1
	essential oil (osmanthus absolute)	France	DEHP: >5.0 mg/kg; DINP: 8.0 mg/kg; DBP: >5.0 mg/kg; DIBP: 2.2 mg/kg	1
Acrylamide	biscuits	Serbia, Ukraine, Turkey	up 805 µg/kg	3
	crispy extruded flatbread	Germany	529.5 µg/kg	1
3-Monochloro-1,2-propanediol (3-MCPD)	potato sticks	China	2,496 µg/kg	1
	glycerine	Germany	2,200 µg/kg	1
Glycidyl esters	food supplement	Romania	1,651 µg/kg	1
	sunflower oil	Ukraine	4,100 µg/kg	1
	potato sticks	China	1,619 µg/kg	1
Chinolizidine alkaloids	lupine seeds	Lebanon		1
Pyrrolizidine alkaloids (PA)	cumin	Poland, India, Austria	up 3,340 µg/kg	4
	oregano, parsley leaves	Belgium, Poland	up 3,249 µg/kg	3
	black tea	Kenya	up 540 µg/kg	2
	food supplement	Netherlands	3,920 µg/kg	1
Ergot alkaloids	organic einkorn flour	France	224 µg/kg	1
	rye flour, rolled rye and grinded rye	Belgium		1
Histamine	fish / fish products	Senegal, Sri Lanka, Italy	up 652.2 mg/kg	3
Hydrocyanic acid	cassava flour	Cameroon, Netherlands	up 125 mg/kg	2
	almond cookies	Germany	up 63 mg/kg	2
	linseed flour	Belgium	732 mg/kg	1
Iodine	dried seaweed	China	up 2,529 mg/kg	2
Pharmacological Active Substances				
Hydroxyanthracene derivates	food supplement	Italy	Aloe-emodin: 579.6 µg/kg; Aloin A: 2,947.9 µg/kg; Aloin B: 1,426.7 µg/kg	1
Cannabidiol (CBD)	food supplement	Switzerland, Czech Rep.		2
	aromatic oil, CBD oil	Slovenia, Netherlands, Germany, Spain, Switzerland, Austria		6
	protein powder and energy booster	Netherlands		1
	confectionary, chewing gum	France, Netherlands		2
Hexahydrocannabinol (HHC)	confectionary	Czech Rep., Netherlands		4

Reason for Notifying	Product	Country of Origin	Notes	Number
Tetrahydrocannabinol (THC)	aromatic oil, CBD oil	Slovenia, Switzerland, Austria	up 1,619 mg/kg	3
	food supplement	Switzerland, Czech Rep.	up 1,350 mg/kg	2
	chewing gum	Netherlands	1992,902 µg/kg	1
Closantel	sheep liver	Ireland	>2,500 µg/kg	1
Dimetridazole	marinated chicken skewer	Thailand		1
Nitrofurantol metabolite	frog legs, shrimps	Vietnam	AOZ: 16.6 µg/kg	2
Tulathromycin	beef	France	369 µg/kg	1
Sibutramine	food supplement	Turkey		1
Sildenafil	herbal mixture, herbal paste, food supplement	Turkey		3
Yohimbine	food supplement	Netherlands		1
Unauthorised Colours				
Sudan IV	sumac powder	Turkey		1
Titanium dioxide (E 171)	pastries	Canada		1
	confectionary, chewing gum	Spain, unknown via UK, Canada, Belarus, Poland		5
	flavoured drinks	Belgium		1
	saucers	Peru		1
Miscellaneous				
Parasitic infestation with Anisakis	fish / fish products	China, Denmark		2
GMO, not authorised	rice noodles	China, Vietnam		3
	food preparations	South Korea		1
Unauthorised irradiation	food supplement	Russia		1
Foodborne disease outbreak	oysters	France		5
Pathogenic Germs				
Salmonella total: 64	meat / meat products (including poultry)			41
	codfish	China		1
	onion powder, black pepper, mint, seasonings, bay leaves, parsley	India, Vietnam, Egypt, Spain, Turkey		7
	sesame / sesame products	Turkey, Poland, India, Nigeria, Egypt		10
	betel leaves	India		1
	almonds, walnut kernels	Spain, USA		3
	granulated soya-based meat substitute	Germany		1
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	Germany, France, Lithuania, Italy, Belgium, Spain		9
	fish / fish products	Denmark, UK, Norway, Lithuania, Chile		6
	shrimps	Netherlands		1

Reason for Notifying	Product	Country of Origin	Notes	Number
	concentrated goat's milk	Netherlands		1
	cheese, raw milk cheese	France, Italy, Netherlands		5
	hummus	West Bank and Gaza Strip		1
	pistachio powder	Turkey, France		2
	walnut sauce	Italy		1
<i>Campylobacter jejuni</i>	duck drumsticks	Poland		1
Shiga toxin-producing E.coli (STEC)	hamburger patties	Germany		2
	sucuk salami	Poland		1
	cheese, raw milk goat's cheese	France, Italy		5
	wood ear mushrooms	Thailand		1
	psyllium fiber	India		1
<i>Vibrio cholerae</i>	shrimps	Ecuador		1
Hepatitis A Virus	strawberries	Morocco		2
Hepatitis E Virus	pepperoni sausages	Finland		1
Rotavirus	oysters	Ireland		1
Norovirus	oysters, mussels	France, Ireland, Netherlands, Croatia, Canada		12
	strawberries, blackberries, blueberries	Morocco, Germany, Poland		4
	seaweed salad	China		2

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