

Food Legislation News

No. 3 – June 2021

Statements of the ALS

The Work Group of Food Chemistry Experts of the States and of the Federal Office of Consumer Protection and Food Safety (Arbeitskreis Lebensmittelchemischer Sachverständiger der Länder und des Bundesamtes für Verbraucherschutz und Lebensmittelsicherheit (ALS)) made a total of 22 decisions at its 115th conference and prepared, amongst others, the following statements:

Batch identification regarding deep-frozen foods:

The indication regarding the identification of the batch that is required in Section 5 of the Regulation on Deep-Frozen Goods (abbreviated to "TLMV" in German) can be implemented via the indication of the best-before date when the latter is specified with the day, month and year (Statement No. 2020/01).

Nutritional values in the visual field of foods:

If an individual nutritional value from the nutrition declaration is placed as the exclusive indication in the main visual section (e.g. "50% X"), this indication is considered inadmissible (according to Article 30 Subsection 3 of Regulation (EU) No. 1169/2011). The exceptions to this are nutrition facts that are stipulated by other statutory provisions (Statement No. 2020/02).

Claiming the adjectives "vegan" or "vegetarian":

Particularly with regard to single-ingredient products, the indications "vegan" or "vegetarian" or the use of relevant labels can represent an advertisement with matters of course, if no difference in the production/composition to comparable products can be presented. The possibility of misleading consumers can be prevented by the additional indication "by nature" (Statement No. 2020/03).

QUID for compound ingredients:

The quantitative ingredients declaration (QUID) of an individual ingredient that is contained in a compound ingredient can only be indicated with reference to the compound ingredient when, in addition, the QUID of the ingredient is specified in relation to the final product (Statement No. 2020/04).

Allergen labelling:

In order to support the investigations due to the positive findings of undeclared allergens, the leaflet "Überprüfung der Allergenkennzeichnung im Herstellungsbetrieb" (check of the allergen labelling in the manufacturing facility) is recommended, which was published as an annexe (Statement No. 2020/05).

The allergen labelling for bulk goods must be implemented in German. Therefore, the sole labelling by means of pictograms is not sufficient (Statement No. 2020/06).

HPP-treated fruit juices, fruit nectars and other beverage labelling:

Since in HPP products, which are preserved using high hydrostatic pressure, germs were not fully eliminated, these need to be stored under cooling conditions, just like the corresponding fresh products. As a description of the special treatment regarding the germ reduction, an indication such as "pasteurised by high-pressure treatment" or "preserved through high pressure" is considered to be suitable (Statement No. 2020/09).

Identification of the post-harvest treatment of citrus fruits:

The statement contains a tabular overview for the identification of the post-harvest treatment of citrus fruits in the retail sale, with the specific associated statutory sources, respectively (Statement No. 2020/10).

Misleading specifications regarding the packaging:

If food is advertised with incorrect specifications regarding the packaging materials used, it must be assessed in accordance with Article 3 Subsection 2 of Regulation (EC) No. 1935/2004. According to the latter, the labelling, advertisement and presentation of the food contact materials and items must not mislead the consumer (Statement No. 2020/15).

Legal classification of precipitation salts for the production of tofu:

Irrespective of the residual amount that remains in the product, precipitation salts, which are needed for the production of tofu, are additives that are subject to labelling (Statement No. 2020/20).

Assessment of chip fat:

The ALS specifies in detail as to which parameters and methods need to be used for the assessment of chip fat (Statement No. 2020/22).

Note:

Statements of the ALS are not legally binding, but they can be considered as expert opinions.

At https://www.bvl.bund.de/DE/Arbeitsbereiche/01_Lebensmittel/01_Aufgaben/11_ALS_ALTS/02_ALS/ALS_node.html (in German) you will find further details, a current overview of the statements, the statements of the respective current session as well as the archive.

EFSA publications

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

Arsenic:

The EFSA updated their evaluation regarding the chronic food-related exposition to inorganic arsenic in the European population. Across the different age classes, the foods that mainly contribute to an arsenic exposition are rice, rice products, other cereals, cereal products and drinking water. For further details, please refer to <https://www.efsa.europa.eu/en/efsajournal/pub/6380>.

Pesticide residues – annual report:

The EFSA published their annual report (2019) on pesticides in foods in the European Union (<https://efsa.onlinelibrary.wiley.com/doi/abs/10.2903/sp.efsa.2021.EN-6487>).

News from the BfR

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

Suggestions regarding the maximum amounts of vitamins and minerals:

On the basis of new scientific findings, the BfR revised their suggestions regarding the maximum amounts for food supplements and enriched foodstuffs (Statement No. 009/2021 dated 15 March 2021, in German: <https://www.bfr.bund.de/cm/343/aktualisierte-hoehstmengenvorschlaege-fuer-vitamine-und-mineralstoffe-in-nahrungsergaenzungsmitteln-und-angereicherten-lebensmitteln.pdf>).

More salmonella infections in Europe – hygiene rules, FAQ regarding poultry:

In recent months, cases of salmonellosis have increasingly occurred which could partially be attributed to deep-frozen breaded poultry. The BfR, therefore, points to hygiene rules that need to be observed when preparing poultry. In addition to the prevention of the contamination of other foods and thorough heating, particular emphasis is placed on the fact that poultry should not be cleaned using water. Germs might be spread through the splash water. It would be better to directly process the meat or to blot it using a cloth and to dispose of the latter directly after the treatment. The questions and answers regarding poultry were updated (Press Release 18/2021 dated 28 April 2021, in German:

https://www.bfr.bund.de/de/presseinformation/2021/18/mehr_salmonellen_infektionen_in_europa_hygiene_regeln_helfen_gefluegel_sicher_zuzubereiten-271764.html).

COVID-19 - FAQ:

The BfR continuously updates the questions and answers regarding the novel coronavirus SARS-CoV-2 (https://www.bfr.bund.de/en/can_the_new_type_of_coronavirus_be_transmitted_via_food_and_objects_-_244090.html).

Modifications regarding pesticides

Maximum residue levels (MRL):

With the regulations (EU) 2021/590, 2021/618, 2021/644 and 2021/663, the MRL of the following pesticide active agents were modified:

Acronifen, boscalid, chlordecone, diclofop, iron diphosphate, etofenprox, fluopyram, fluxapyroxad, hymexazol, ipconazole, cow milk, L-cysteine, lambda-cyhalothrin, maleic hydrazide, mefentrifluconazole, metamitron, sodium 5-nitroguaiacolate, sodium-o-nitrophenolate, sodium-p-nitrophenolate, penflufen, spirotetramat, terbuthylazine and triclopyr.

EU monitoring:

A regulation for a multi-annual control programme of the European Union regarding pesticide residues for the years 2022, 2023 and 2024 was published in the Official Journal of the European Union (Implementing Regulation (EU) 2021/601 dated 13 April 2021; <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1620050280875&uri=CELEX%3A32021R0601>). Accordingly, specifically determined foods are examined for every year (thereof ten of plant origin and two of animal origin). The results of the analyses are presented by the Member States until the 31 August of the following year, respectively.

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 retrieved on the homepage of the Federal Office of Consumer Protection and Food Safety (BVL) at www.bvl.bund.de (in German: https://www.bvl.bund.de/DE/Arbeitsbereiche/04_Pflanzenschutzmittel/01_Aufgaben/02_ZulassungPSM/01_ZugelPSM/psm_ZugelPSM_node.html).

Modifications regarding veterinary drugs

Announcement of the BVL regarding veterinary drugs:

The Federal Office of Consumer Protection and Food Safety (BVL) published the announcement regarding the approval of veterinary drugs and other official acts dated 8 March 2021 (in German: https://www.bvl.bund.de/SharedDocs/Downloads/05_Tierarzneimittel/Bekanntmachungen/2021_03_10_Bekanntmachung_BAnz.pdf?__blob=publicationFile&v=2).

Imidacloprid in fish:

With Implementing Regulation (EU) 2021/621 of the Commission dated 15 April 2021, a maximum residual level of 600 µg/kg was stipulated for imidacloprid in fish. The regulation came into force on 6 May 2021 and has been valid since then (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0621&from=DE>).

Sentences

ECJ – calcium-containing alga inadmissible in organic beverages:

A powder for calcium enrichment that is obtained from the alga lithothamnium calcareum is inadmissible for the processing of organic foodstuffs (Legal Case C-815/19, Press Release dated 29 April 2021, <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-04/cp210069en.pdf>).

"CO₂ -71%" reference on the packaging:

The "CO₂ -71%" claim on a milk packaging is not misleading when the packaging additionally contains an explaining text from which it is evident that the claim exclusively refers to the packaging (Administrative Court Düsseldorf, sentence dated 17 April 2021 – 16 K 6327/20, in German: <https://openjur.de/u/2332804.html>).

"Nicotine pouches" need to be classified as food:

Small tobacco-free nicotine pouches, which are clenched between the upper lip and the gingiva and which release nicotine predominantly to the inside of the mouth, are food. Since, according to the toxicological risk assessment of the Bavarian State Office for Health and Food Safety (Bayerisches Landesamt für Gesundheit und Lebensmittelsicherheit (LGL)) dated 23 April 2020, they are harmful to health, their marketing may be prohibited (Higher Administrative Court of Luneburg, sentence dated 9 February 2021, 13 ME 580/20, in German: <http://www.rechtsprechung.niedersachsen.juris.de/jportal/?quelle=jlink&docid=MWRE210000551&psml=bsndprod.psml&max=true>).

Miscellaneous

Hydroxyanthracene derivatives:

With Regulation (EU) 2021/468 dated 18 March 2021, Annexe III of the Enrichment Regulation (VO (EC) No. 1925/2006) was extended by the hydroxyanthracene derivatives (HAD). With this, the substances aloe emodin, danthron and emodin (and also all the preparations that contain any of these substances) are prohibited. In addition, the preparations from leaves of aloe species that contain HAD are also prohibited (Part A). In Annexe III Part C, further preparations are specified that will still have to be examined by the Community. The Regulation came into force on 8 April 2021 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0468>).

Halloumi (PDO), Hellim (PDO):

The European Commission registered the typical cheese from Cyprus as a protected designation of origin. The corresponding regulations apply to the entire Cyprus Island, meaning also to the Turkish part (https://ec.europa.eu/commission/presscorner/detail/en/IP_21_1623).

Amended version and splitting of the guidelines for fish, crustaceans, molluscs and products thereof:

In place of the "Guidelines for fish, crustaceans, molluscs and products thereof", two separate guidelines with new content were published on 22 March 2021 (in German):

- Amended version of the guidelines for fish and fish products
(https://www.bmel.de/SharedDocs/Downloads/DE/_Ernaehrung/Lebensmittel-Kennzeichnung/LeitsaetzeFische.html)
- Amended version of the guidelines for crustaceans, molluscs and products thereof
(https://www.bmel.de/SharedDocs/Downloads/DE/_Ernaehrung/Lebensmittel-Kennzeichnung/leitsaetze-krebs-weichtiere.html).

Last update: 30 April 2021

EC Alert Notifications

Following are notifications chosen from the European Rapid Alert System for Food. Considered were alerts, information and border rejections which arrived **between 17 March and 10 May 2021**.

Source:

https://www.bvl.bund.de/DE/Arbeitsbereiche/01_Lebensmittel/01_Aufgaben/04_Schnellwarnsystem/01_aktuelle_rasff_meldungen/aktuelle_meldungen_node.html

Reason for Notifying	Product	Country of Origin	Notes	Number
Mycotoxins				
Aflatoxins total: 64	figs, dates, hazelnuts, almonds, pistachios, peanuts, melon seeds (including products)			54
	cayenne pepper, chili flakes, chili powder, curry powder	Singapur, Sri Lanka, India	B1: up 22.1 µg/kg; total: up 22.3 µg/kg	5
	black pepper	Indonesia	B1: 9.5 µg/kg	1
	nutmeg	Indonesia	B1: 43.4 µg/kg; total: 48.8 µg/kg	1
	sesame seeds	Iran	B1: 38.0 µg/kg	1
	organic buckwheat	China	B1: 32.7 µg/kg; total: 38.0 µg/kg	1
	rice flour	Netherlands	B1: 5.7 µg/kg	1
Ochratoxin A	dried figs, raisins	Spain, Turkey, Pakistan, Uzbekistan	up 99.8 µg/kg	5
	nutmeg	Indonesia	24.3 µg/kg	1
	coffee	Serbia	7.6 µg/kg	1
	basmati rice	Netherlands	5.26 µg/kg	1
	paprika powder, cayenne pepper, red chili powder	Spain, Portugal, India	up 90 µg/kg	1
	crispbread	Sweden	up 3.7 µg/kg	1
Reason for Notifying	Product	Country of Origin	Notes	Number
Heavy Metals / Other Metals				

Lead	ground onions	India	15 mg/kg	1
Cadmium	squid, squid tentacles, live snails	Italy, India	up 3.6 mg/kg	3
	tuna, fish (<i>Katsuwonus, pelamis</i>), swordfish	Pakistan, Ecuador, France	up 1.39 mg/kg	3
Mercury	fish / fish products	France, Spain, Morocco, Cote d'Ivoire	up 4.27 mg/kg	7
Boron	mineral water	Turkey	8.0 mg/l	1
Other Contaminants / Residues				
Ethylene oxide	sesame seeds	Uganda, India, UK, Italy, China, unknown	up 17 mg/kg	14
	bakery products, cereal products	Italy, France	up 2.0 mg/kg	3
	spices, spice mixes, spice pastes	France, India, Netherlands	up 1.89 mg/kg	8
	paprika, peppers	Dominican Rep., Uganda, India	up 0.34 mg/kg	5
	psyllium powder, psyllium peel flakes	India, USA (raw mat. India)	up 117 mg/kg	3
	food supplement	India	up 722 mg/kg	2
	guar gum	India	up 3.2 mg/kg	3
	organic algae powder	China	0.068 mg/kg	1
	organic amaranth	India	15 mg/kg	1
	seeds to germinate	France		1
	mixed seeds and grains mix with sesame seeds	Netherlands	0.14 mg/kg	1
Chlorate	aqueous solution	Germany	72.4 mg/l	1
Benzo(a)pyrene, PAH	palm oil	Ghana		1
	dried green jalapenos	China	PAH: 63.5 µg/kg	1
	ground lovage root	Poland	PAH: 188 µg/kg	1
Bisphenol A	tinned green peas	Poland	up 0.300 mg/kg	1
Acrylamide	biscuits	Turkey	up 732 µg/kg	1
Glycidyl esters	cookies	Saudi Arabia	up 4,839 µg/kg	1
	fat, fat for bakery products	Netherlands	1,650 µg/kg	2
3-Monochlor-1,2-propandiol (3-MCPD)	palm nut oil	Togo	5,160 µg/kg	1
Pyrrolizidine alkaloids (PA)	herbal tea	Czech Rep.	2,928.10 µg/kg	1
	cumin, oregano	Turkey	up 10,906.77 µg/kg	3
Tropan alkaloids (Atropine, Scopolamine)	millet	Netherlands	Atropine: 40.1 µg/kg; Scopolamine: 29.1 µg/kg	1
Shellfish poisoning toxins (ASP)	mussels	France		1
Histamine	fish / fish products	Pakistan, Morocco	up 810 mg/kg	2
Cyanide	food supplement	Czech Rep.		1
Iodine	algae	China, Norway, Netherlands	up 1,040 mg/kg	3
	food supplement	UK		1
Reason for Notifying	Product	Country of Origin	Notes	Number
Pharmacological Active Substances				

2,4-Dinitrophenol (DNP)	food supplement	Turkey, Czech Rep.		2
Cannabidiol (CBD)	food products containing hemp extracts, CBD oil, food supplement	Netherlands, Switzerland, unknown (online)		3
Tetrahydrocannabinol (THC)	food products containing hemp extracts, CBD oil, CBD extract	Netherlands, Switzerland, Germany, Austria		4
5-Hydroxytryptophan (5-HTP)	food supplement	Germany		1
Crystal violet, leukocrystal violet	shrimps, seabreams	India, Malta, Greece		4
Nitrofuran metabolites	frog legs	Vietnam	AOZ: 27 µg/kg	1
	shrimps	India	AOZ: 2.48 µg/kg	1
Nortadalafile	food supplement	Romania		1
Sildenafil	honey/sugar based paste with herbs	Turkey		1
	food supplement	China, UK		2
Tadalafil	food supplement	China		1
Tetracyclines	chicken	Belgium	Doxycycline:133 µg/kg	1
Yohimbine	food supplement	USA		1
Unauthorised Colours				
Rhodamine B	pickled turnips	Syria		1
Orange II	chili pepper powder	Nigeria		1
Sudan I	curry	India		1
Sudan IV	palm oil	Ghana		1
Miscellaneous				
Parasitic infestation with Anisakis	fish / fish products	Morocco, Iceland, France		4
GMO, not authorised	papaya	Czech Rep.		1
	food enzyme	Netherlands		1
Foodborne disease outbreak	food supplement	Denmark		1
	spinach puree	Slovakia		1
	tuna	Vietnam		1
Pathogenic Germs				
Salmonella total: 74	meat / meat products (including poultry)	Germany, Poland, Netherlands, Denmark, France, Belgium, Bulgaria, Ireland, Italy, Luxembourg		51
	fish powder, live fishes, mussels	Netherlands, Italy, Vietnam		3
	raw milk cheese	France		1
	spices, spice mixes, organic herbal mixes	Turkey, Brazil, India, Germany		12
	organic tiger nut flour in porridge	Germany		1
	sesame seeds	Nigeria, Iran		3

Reason for Notifying	Product	Country of Origin	Notes	Number
	chocolate wafers, cocoa liquor	Poland, Netherlands		2
	food supplement	Denmark (raw mat. India)		1
Listeria monocytogenes	meat / meat products (including poultry)	Poland, Netherlands, Spain, Bulgaria, Belgium		6
	herring in oil	Belarus		1
	raw milk cheese, gorgonzola, feta, raw milk sheep cheese, raw milk goat`s cheese, goat`s cheese	France, Italy, Greece, Spain		7
	organic beetroots	Netherlands		1
Shigatoxin-producing E.coli (STEC)	meat / meat products	Spain, New Zealand, Argentina, Paraguay, Slovenia, Belgium, Bulgaria		12
Vibrio parahaemolyticus	shrimps	Vietnam		1
Norovirus	raspberries	Serbia		1
	mussels, oysters	France		3

Created:

Susanne Ermert-Knauf
Eurofins Analytik GmbH
Neuländer Kamp 1
D-21079 Hamburg
Tel. +49-40-49294-1741
SusanneErmert-Knauf@eurofins.de

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