

Food Legislation News

No. 6 – December 2023

Statements of the ALTS

The working group of experts (ALTS) that deals with the field of food hygiene and food of animal origin made the following decisions at its 91st conference:

Labelling of low amounts of value-adding ingredients:

Highlighting information regarding ingredients in a way that suggests a characteristic, perceptible quantity of the respective ingredient in the food, but wherein those ingredients are actually only contained in very small quantities can be misleading in individual cases despite quantity labelling (QUID). This applies in particular if the quantity indication is not shown in the same field of vision and not in a similar or similarly prominent manner as the actual claim (Decision 2023/91/06, replaces Decision 2012/69/06).

Public perception of minced meat from industrial-scale production:

Any loss of structure resulting from the mechanical-industrial production process must be limited. In the case of "minced meat", the proportion of intact muscle fibre structure must predominate, otherwise the consumer must be informed regarding the altered properties (Decision 2023/91/16). The use of Guideline 2: "Minced meat - criteria for the parameter "intact/structured or destroyed/structureless muscle fibre structure" is recommended, in which the analysis and evaluation are explained (in German: https://www.bvl.bund.de/SharedDocs/Downloads/01_Lebensmittel/ALS_ALTS/Leitfaden-Hackfleisch.pdf;jsessionid=6B9E04D9319882D2A335C18C6EB546F7.internet942?_blob=publicationFile&v=3).

Labelling of the technologically induced structure destruction of the meat in products made from ground or similarly minced meat, such as meatballs:

The maximum permissible technologically produced muscle abrasion (sausage meat-like substance) is limited to a maximum of 20% by volume in accordance with Guideline Number 2.1.5 of the guidelines for meat and meat products (with the exception of poultry meat). With changes in the production technologies, however, the structural destruction is histologically evident in a different way (e.g. structureless protein mass), so that these products are essentially assessed on the basis of their sensory properties (appearance, coarse structure, haptics). For products with a proportion of meat-like substance of > 20% by volume and/or products with inadequate sensory properties, a reference to the increased degree of comminution of the processed meat is required. This reference must be made in connection with the labelling.

If the proportion of sausage meat-like substance is more than 50%, the designations specified under Guideline Number 2.1.5 are not permitted - even with the corresponding references (Decision 2023/91/19, replaces Decisions 2009/64/14, 2011/67/27, 2015/75/24).

Note:

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

At https://www.bvl.bund.de/EN/Tasks/01_Food/01_tasks/02_OfficialFoodControl/13_ALTS/Im_ALTS_basepage.html you can find further details and, in German, a current overview of the statements, the statements of the respective current session as well as the archive.

News from the BfR

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

Ergot alkaloids in cereal products:

Due to a reduction of the maximum levels in certain cereal products which is planned for 2024, the BfR investigated, among other things, whether or not the future lowered maximum levels are suitable for preventing adverse health effects caused by ergot alkaloids. For the cereal products that were analysed, the BfR comes to the conclusion that the current maximum levels may cause adverse health effects in children and that the planned halving of the maximum levels in the product group under consideration is, therefore, welcome. However, the BfR points out that there is still a lack of data for the assessment in other cereal products (Statement No. 041/2023 dated 25 September 2023, in German:

<https://www.bfr.bund.de/cm/343/bewertung-gesundheitlicher-risiken-durch-ergotalkaloide-in-ausgewaehlten-getreideprodukten.pdf>).

Intake of PCDD/F and dioxin-like PCBs and PFAS through the consumption of fish:

The BfR calculated the quantities of the above-mentioned substances that consumers take in when eating fish. The result was that, for certain types of fish, the tolerable weekly intake (TWI) can be exceeded with just one fish meal (150 g each) per week. However, the BfR also refers to the health benefits of eating fish, which must be taken into account (Statement No. 043/2023 of 27 September 2023, in German: <https://www.bfr.bund.de/cm/343/expositionsschaetzung-zur-aufnahme-von-pcdd-f-und-dioxinaehnlichen-pcb-sowie-pfas-durch-den-verzehr-verschiedener-fischarten.pdf>).

Methylmercury – fish consumption during pregnancy and breastfeeding:

The BfR evaluated recent data on the mercury levels in fish. The organic form of mercury, methylmercury, can accumulate in fish and, therefore, some fish species have elevated levels of methylmercury. Pregnant and breastfeeding women should, therefore, avoid certain types of fish. The results of the current evaluations give no reason to change the consumer advice issued by the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV) regarding the consumption of fish for pregnant and breastfeeding women (Statement No. 047/2023 of 11 October 2023, in German: <https://www.bfr.bund.de/cm/343/fischverzehr-in-schwangerschaft-und-stillzeit-einige-fischarten-weisen-hohe-methylquecksilber-gehalte-auf.pdf>).

Hexahydrocannabinol (HHC) in food – evidence of psychoactive effects:

Evidence from animal and cell culture studies as well as evidence from experience reports of persons who consumed HHC indicate that HHC can cause effects similar to delta9-tetrahydrocannabinol (Statement 044/2023 of 5 October 2023, in German: <https://www.bfr.bund.de/cm/343/hexahydrocannabinol-hhc-in-lebensmitteln-hinweise-auf-psychoaktive-wirkungen.pdf>).

Vitamin B12 with plant-based nutrition – FAQ:

On 18 October 2023, the BfR published a catalogue of questions and answers regarding Vitamin B12 with a special focus on plant-based nutrition (in German: <https://www.bfr.bund.de/cm/343/vitamin-b12-bei-pflanzenbasierter-ernaehrung-besonders-auf-eine-angemessene-versorgung-achten.pdf>).

Nickel:

According to calculations by the BfR, no significant amounts of nickel are absorbed via seaweed, which is processed in sushi, for example (Statement 050/2023 dated 19 October 2023, in German: <https://www.bfr.bund.de/cm/343/keine-wesentliche-nickel-aufnahme-ueber-algen-als-lebensmittel.pdf>).

Modifications regarding pesticides

Maximum residue levels (MRL):

With the regulations (EU) 2023/1719, 2023/1753, 2023/1783 and 2023/2382, the MRL of the following pesticide active agents were modified:

Carbetamide, carboxin, denatonium benzoate, diuron, etoxazole, straight-chain lepidopteran pheromones, isoxaben, metaldehyde, Metarhizium brunneum strain Ma 43, methomyl, paclobutrazol, pyriproxyfen, teflubenzuron and triflumuron.

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:

Report from the European Rapid Alert System RASFF 2022:

On 28 September, the BVL published a report on the notifications from the European Rapid Alert System for Food and Feed (RASFF) for the year 2022 (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldungen/01_lebensmittel/2023/2023_09_28_RASFF_Jahresbericht_2022.html).

Report on foodborne outbreaks in Germany 2022:

Together with the Robert Koch Institut (RKI), the BVL has published a national report on foodborne outbreaks in Germany in 2022 (in German: https://www.bvl.bund.de/SharedDocs/Berichte/10_BELA_lebensmittelbed_Krankheitsausbruechen_Dtl/Jahresbericht2022.pdf?__blob=publicationFile&v=4).

Food fraud:

On 10 October 2023, the BVL published the results of Operation OPSON XII against food fraud. The German food control authorities analysed sunflower oil and products containing sunflower oil for unfair practices. Out of 241 samples, only 4 oils were objected to due to misleading claims (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2023/OPSON-XII.html).

Pharmacological effects - position paper of the Joint Expert Commission:

The Joint Expert Commission for the classification of substances, whose office is headed by the BVL and the Federal Institute for Drugs and Medical Devices (BfArM), produced a position paper explaining the differences in the use and understanding of the pharmacological effects in the legal and scientific sense (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldungen/01_lebensmittel/2023/2023_10_06_Grundsatzpapier_Pharmakologische_Wirkung.html).

Veterinary drugs:

The BVL published the announcements regarding the approval of veterinary drugs and other official acts as of 20 July 2023 and 6 September 2023.

Links (in German):

- https://www.bvl.bund.de/SharedDocs/Fachmeldungen/05_tierarzneimittel/2023/2023_09_01_Fa_Bekanntmachung_Zulassung_TA.html
- https://www.bvl.bund.de/SharedDocs/Fachmeldungen/05_tierarzneimittel/2023/2023_09_26_Fa_Bekanntmachung_Zulassung_TA.html

Sentence

Deposit labelling - update:

On 26 October 2023, the Federal High Court of Justice (BGH) ruled that the deposit amount must be stated alongside the sales price or total price. In doing so, the Federal High Court of Justice implemented the European Court of Justice's (ECJ) reference decision of 29 June 2023 and explained that the separate indication makes it easier to assess and compare the prices of goods.

Links:

- Federal High Court of Justice Ref. I ZR 135/20, in German:
<https://www.bundesgerichtshof.de/SharedDocs/Pressemitteilungen/DE/2023/2023177.html>
- ECJ LC. C-543/21:
<https://curia.europa.eu/juris/document/document.jsf?text=&docid=275029&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=1514905>.

Miscellaneous

Organic food in communal catering:

On 4 October 2023, the Ordinance on the Labelling of Organic Food in Communal Catering Facilities and on the Organic Labelling Ordinance was published in the Federal Law Gazette. Article 1 of the ordinance contains the so-called Organic Out-of-Home Catering Ordinance (Bio-AHVV), which regulates the production, control and labelling of organic ingredients and organic products as well as the labelling of the total proportion of organic food in communal catering facilities. The ordinance came into force on 5 October 2023 (Federal Law Gazette I No. 265 of 4 October 2023, in German:
<https://www.recht.bund.de/bgb1/1/2023/265/VO>).

Additives – legal amendments:

The following changes to the law on additives were published:

- Approval of buffered vinegar (E 267) as a preservative and acidity regulator: Regulation (EU) 2023/2086 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R2086>),
- Removal of stearyl tartrate (E 483) from the Union list: Regulation (EU) 2023/2379 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202302379&qid=1698852106567),
- Reduction of the use levels of nitrites (E 249-250) and nitrates (E 251-252) as well as the adaptation of the specifications: Regulation (EU) 2023/2108 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202302108&qid=1698852290573).

EFSA – Mineral oil hydrocarbons (MOH):

The European Food Safety Authority (EFSA) published an opinion updating the risk assessment of MOH in food (<https://www.efsa.europa.eu/en/topics/topic/mineral-oil-hydrocarbons>).

Guidelines of the German Food Code:

The following guideline modifications were published in the German Federal Gazette:

- Modification of the guidelines for crustaceans and molluscs as well as products thereof (in German: <https://www.bundesanzeiger.de/pub/publication/IRXGWDIsNhl6ivwiBCz/content/IRXGWDIsNhl6ivwiBCz/BAAnz%20AT%2009.10.2023%20B1.pdf?inline>)
- Modification of the guidelines for fish and fish products (in German: <https://www.bundesanzeiger.de/pub/publication/5xOFfp9ZFWGe7GJgn3v/content/5xOFfp9ZFWGe7GJgn3v/BAAnz%20AT%2010.10.2023%20B4.pdf?inline>).

Last update: 26 October 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 13 September and 3 November 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_im_box.html (in German)

Reason for Notifying	Product	Country of Origin	Notes	Number
Mycotoxins				
Aflatoxins total: 42	peanuts, pistachios, figs, almonds, hazelnuts, brazil nuts, melon kernels (including products)			34
	basmati rice, rice	Pakistan, India	B1: up 7.0 µg/kg	3
	nutmeg	Indonesia	B1: up 23.5 µg/kg; total: 26.8 µg/kg	2
	sesame seeds	Pakistan	B1: 3.9 µg/kg	1
	dietary drink powder	Germany	B1: 4.24 µg/kg	1
	fig date orange chocolate cake	Spain	B1: up 38.4 µg/kg; total: up 65.2 µg/kg	1
Ochratoxin A	sultanas	Turkey	14.1 µg/kg	3
	cayenne pepper, paprika powder	Turkey	up 132.1 µg/kg	2
	ground roasted coffee	Belgium	4.6 µg/kg	1
	organic dandelion root	France	570 µg/kg	1
Heavy Metals/Other Metals				
Lead	lamb's offals	UK	0.27 mg/kg	1
	salami with wild boar meat	France	0.34 mg/kg	1
	food supplement	India	up 18,735 mg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Cadmium	octopus, baby octopus, mussels	India, Italy, Chile	up 2.3 mg/kg	3
	spring onion	Germany	0.27 mg/kg	1
	frozen red pepper dices	Poland	0.033 mg/kg	1
	rice	Italy	0.41 mg/kg	1
Mercury	fish / fish products	Spain, Ecuador, Tunisia, Morocco, Senegal	up 3.03 mg/kg	10
	mixture of amino acids	China	0.18 mg/kg	1
	Ginkgo Biloba powder	China	49.85 mg/kg	1
	food supplement	India, Poland	up 22,378 mg/kg	8
Arsenic	mussels	New Zealand	39.7 mg/kg	1
Copper	duck eggs	China	8.4 mg/kg	1
Other Contaminants/Residues				
Ethylene oxide, 2-Chloroethanol	food supplement	India		2
	spice mixture, cinnamon powder, turmeric extract, psyllium husk powder	India		4
	frozen garlic	China		1
	bay leaves	Turkey		1
Chlorate	chicken meat, chicken meat preparation	Thailand	up 5.27 mg/kg	14
Perchlorate	radish	Netherlands	0.082 mg/kg	1
Triphenyltin (TPT)	shrimps	Indonesia	242.63 µg/kg	1
Benzo(a)pyrene, PAH	smoked fish	Ghana	Benzo(a)pyrene: 34.4 µg/kg; PAH: 225 µg/kg	1
	rice cakes for infants and young children	Belgium	PAH: up 3.7 µg/kg	1
Mineral oil (MOSH, MOAH)	rice oil	Thailand	MOSH: 21.7 mg/kg; MOAH: 10.9 mg/kg	1
	sesame oil	Singapore		1
	pastries	Iran		1
Acrylamide	cookies	Ukraine	up 692 µg/kg	2
3-Monochloro-1,2-propanediol (3-MCPD)	infant milk	France	20.9 µg/kg	1
Glycidyl esters	cake with cocoa flavour filling	Netherlands	4,921 µg/kg	1
	vegetable ghee	Saudi Arabia	2,256 µg/kg	1
Pyrrolizidine alkaloids (PA)	cumin	Turkey, India, Lebanon	up > 16,221 µg/kg	5
	oregano	Turkey	up 8,640.7 µg/kg	4
	rosemary	France	967 µg/kg	1
	chives	Germany	553 µg/kg	1
	herbal tea	Morocco, Poland	up 657 µg/kg	2
	food supplement	unknown via India	32,570 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Tropanic alkaloids	sorghum flour	Germany, Italy	Atropine: up 15.9 µg/kg; Scopolamine: up 5 µg/kg	2
	buckwheat flour	France	Atropine: 7.4 µg/kg; Scopolamine: 7.1 µg/kg	1
	corn	France	Atropine: 52 µg/kg; Scopolamine: 14 µg/kg	1
Shellfish toxins (DSP)	mussels	France, Portugal	DSP: up 234 µg/kg	4
Histamine	fish / fish products	Sri Lanka, Croatia	up 699.2 mg/kg	3
Iodine	dried seaweed	Italy		1
	seaweed salad	China	up 12 mg/kg	2
Pharmacological Active Substances				
Hydroxyanthracene derivates (aloe-emodin)	food supplement	France		1
Huperzine A	food supplement	USA, Spain		3
Cannabidiol (CBD), Cannabigerol (CBG)	food supplement	Spain, UK, USA, Austria, Bulgaria, France		6
	CBD oil, CBD extract, CBD capsules, products containing CBD oil	France, Switzerland, Poland		4
	honey	Switzerland, France		2
	CBD tea, syrup, sweets, chewing gum	Netherlands, France, Czech Rep.		7
Hexahydrocannabinol (HHC)	sweets	Austria, Switzerland		2
Tetrahydrocannabinol (THC)	CBD oil	Switzerland	762 mg/kg	1
	honey	Switzerland	4,149 µg/kg	1
	chewing gum	Czech Rep.	1,202 µg/kg	1
Morphine	poppy seeds	Turkey, Slovakia, Poland, Czech Rep.	up 191 mg/kg	9
	breadsticks with poppy seeds	Romania	2.86 mg/kg	1
Tulathromycin	turkey meat	Poland	22.6 µg/kg	1
Nitrofurantol metabolite	salted beef casings	India	3 µg/kg (SEM)	1
Ternidazol	shrimps	India		1
Tetracycline	shrimps	Vietnam	Doxycycline: 700 µg/kg	1
Sildenafil	herbal paste, food supplement	Turkey, Czech Rep., UK		4
Yohimbine	food supplement	Russia		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Unauthorised Colours				
Sudan I, IV	paprika powder	Turkey		1
Sudan IV	palm oil, paprika spice preparation	Ghana, Turkey		2
Titanium dioxide (E 171)	pastries, sweets, chewing gum	Serbia, China, Turkey, Netherlands		4
Miscellaneous				
Too high content of capsaicinoids	tortilla chips with chili	Czech Rep.	9,300 mg/kg	1
Magnesium in metal form	food supplement	Slovakia		1
Parasitic infestation with Anisakis	fish / fish products	Morocco, Denmark, Netherlands, Spain		6
GMO, not authorised	rice noodles	Vietnam		2
Unauthorised irradiation	cashew nuts	Cote d'Ivoire		1
Foodborne disease outbreak	goat raw milk cheese	France		1
	organic raw beetroot juice	Sweden		1
Pathogenic Germs				
Salmonella total: 88	meat / meat products (including poultry)			64
	mussels, shrimps	Italy, Netherlands, Spain, Bangladesh		7
	sugared egg yolk	Netherlands		1
	sesame / sesame products	India, Turkey, Chad		4
	pistachios	Germany (raw mat. USA)		1
	papaya	India		1
	coriander, basil, lime leaves	Poland, Egypt, Thailand		3
	betel leaves	India		3
	teff flour	Netherlands		1
	Mousse au Chocolat, snack product, waffles	Germany, Netherlands		3
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	Estonia, Poland, Ireland, Italy, Austria, Spain		8
	fish / fish products	Norway, Belgium, Germany, Denmark		5
	gorgonzola, cheese, sheep's cheese with spices	Italy, France		4
	focaccia bread	Netherlands		1
	olive products	Germany		2
	tahini	Netherlands		1
Acinobacter and pseudomonads	fresh low-fat milk	Germany		1
<i>Bacillus cereus</i>	dip sauces, spices	Netherlands, Togo		2
<i>Campylobacter jejuni</i>	chicken leg meat	Poland		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Shigatoxin producing E.coli (STEC)	beef	Brazil, Belgium, Argentina		3
	cheese, soft cheese, goat raw milk cheese	France		3
	salad mix	Netherlands		1
Staphylococcal enterotoxin	raw milk cheese	Switzerland		1
<i>Vibrio cholerae</i> , <i>Vibrio parahaemolyticus</i> , <i>Vibrio vulnificus</i>	shrimps, mussels, oysters, shrimps ravioli	Ecuador, Spain, France, Ireland, UK		10
Hepatitis A virus	mussels	Spain		1
Norovirus	oysters	France		2
	sprouts	Belgium		1

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