

Food Legislation News

No. 4 – August 2023

News from the BfR

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

Grayanotoxins in honey - FAQ:

The catalogue of questions and answers of the BfR regarding the subject of grayanotoxins in honey was updated on 3 May 2023 (https://www.bfr.bund.de/en/selected_questions_and_answers_on_grayanotoxins_in_honey-311010.html).

Residues of pesticides in strawberries:

According to test measurements performed by an environmental protection organisation, commercially available strawberries contain pesticide residues. In this regard, the BfR points out that the detection of residues in food does not per se represent a health risk. Since the legally defined maximum amounts were not exceeded in any of the samples, no adverse health effects are to be expected from the consumption of these strawberries (Communication No. 022/2023 dated 7 June 2023, <https://www.bfr.bund.de/cm/349/residues-of-plant-production-products-in-strawberries-no-health-effects.pdf>).

BfR2GO:

The 1/2023 edition of the science magazine of the BfR ("BfR2GO") was released and is available at <https://www.bfr.bund.de/cm/364/bfr-2-go-issue-1-2023.pdf>.

Botulism – FAQ:

On 15 June 2023, the BfR updated their catalogue of questions and answers regarding botulism (<https://www.bfr.bund.de/cm/349/rare-but-avoidable-questions-and-answers-about-botulism.pdf>).

PFAS – FAQ:

On 16 June 2023, the BfR published questions and answers regarding per- and polyfluoroalkylated substances (PFAS) in food and in the environment (https://www.bfr.bund.de/en/here_to_stay_per_and_polyfluoroalkyl_substances_pfes_in_food_and_in_the_environment-244188.html).

EFSA publications

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

Vitamin B6:

The EFSA published its statement on the tolerable upper intake level (UL) of vitamin B6 on 17 May 2023. For adults (including pregnant and breastfeeding women), a UL of 12 mg/day was set. From this, age-dependent ULs are derived for children. More details can be found at <https://www.efsa.europa.eu/en/efsajournal/pub/8006>.

Modifications regarding pesticides

Maximum residue levels (MRL):

With the regulations (EU) 2023/1029, 2023/1042, 2023/1049, 2023/1068 and 2023/1069, the MRL of the following pesticide active agents were modified:

Bixafen, cyantraniliprole, cyprodinil, fenhexamid, fenpicoxamid, fenpyroximate, fish oil, flutianil, folpet, isoxaflutole, mandipropamid, methoxyfenozide, pendimethalin, phosmet, sheep fat, spinetoram and spirotetramat.

Microorganisms:

With regulation (EU) 2023/1030 dated 25 May 2023, three new strains of microorganisms were included in Appendix IV of Regulation (EC) No. 396/2005 as “pesticide active agents with low risk”. Thus, the previously valid standard MRL of 0.01 mg/kg is omitted for the following strains:

- Bacillus amyloliquefaciens strain AH2
- Bacillus amyloliquefaciens strain IT-45
- Purpureocillium liacinum strain PL 11

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).

Modifications regarding veterinary drugs

Notification of the BVL regarding veterinary drugs:

The Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit (BVL)) published the announcements regarding the approval of veterinary drugs and other official acts as of 22 March 2023 and 4 April 2023 (in German):

https://www.bvl.bund.de/SharedDocs/Downloads/05_Tierarzneimittel/Bekanntmachungen/2023_05_03_Bekanntmachung_BAnz.pdf?__blob=publicationFile&v=3 and https://www.bvl.bund.de/SharedDocs/Downloads/05_Tierarzneimittel/Bekanntmachungen/2023_05_17_Bekanntmachung_BAnz.pdf?__blob=publicationFile&v=2

Praziquantel in fish:

With the Commission Implementing Regulation (EU) 2023/981 dated 17 May 2023, a maximum residue level of 20 µg/kg was stipulated for praziquantel in fish. The regulation came into force on 11 June 2023 and has been valid since then (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0981>).

Sentences

ECJ – Emmentaler cheese is not an EU trademark:

Since consumers perceive the term "Emmentaler" as a type of cheese and not as a geographical indication, the term "Emmentaler" cannot be protected as an EU trademark (ECJ, 24 May 2023, Ref. T-2/21, <https://curia.europa.eu/juris/document/document.jsf?mode=DOC&pageIndex=0&docid=274062&part=1&doclang=EN&text=&dir=&occ=first&cid=1295813>) The Swiss inter-trade organisation "Emmentaler Switzerland" wanted to obtain protection under trademark law and can now bring the case to the European Court of Justice (ECJ).

Administrative Court of Münster – sausage clips are not part of the net weight:

Non-edible sausage clips and casings are not included in the net weight, but they must be deducted from the gross weight as a tare. Due to the direct applicability of the Food Information Regulation (LMIV, Regulation (EU) No. 1169/2011), the guideline for fill quantity tests originally applied by the administration is obsolete in this respect and, therefore, no longer applicable (Administrative Court of Münster, 28 March 2023, Ref. 9 K 2549/19, in German: <https://oj.is/2467027>).

Is "Grana" a generic name or protected name?

A Turin court has decided that the name "Grana" is a generic term and may therefore be used on its own. The plaintiff Grana Padano Consortium, which defends compliance with the specifications of the protected designation of origin "Grana Padano", will appeal against this. Already in 2022, a court in Venice has decided that the term "Grana" may only be associated along with "Padano". Similarly, already in 2007, the Court of Justice of the European Union did not consider "Grana" to be generic (ECJ, Case T-291/03). However, in its "Balsamico" case law in 2019, the European Court of Justice took the view that the designation protection "Aceto Balsamico di Modena" does not extend to the individual non-geographical terms and that "Aceto Balsamico" is a generic term (ECJ, C-432/18). In this respect, there is now also disagreement regarding the designation "Grana" and the Grana Padano Consortium has already announced that it may take the matter all the way to the ECJ.

Miscellaneous

New version of the EU Contaminants Regulation:

The former contaminants regulation (Regulation (EC) No. 1881/2006) was revised and the new version was published in the Official Journal on 5 May 2023 as "Commission Regulation (EU) 2023/915 of 25 April 2023 on maximum levels for certain contaminants in food and repealing Regulation (EC) No 1881/2006" (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0915>). The regulation came into force on 25 May 2023 and shall apply directly in every Member State.

Restructuring of national dietary law:

The Ordinance on the restructuring of the law on certain foodstuffs of 26 April 2023 replaced the former Diet Ordinance with the Ordinance on Foodstuffs for Certain Consumer Groups (LMBVV) in Article 1. However, § 11 of the ordinance stipulates that, for processed cereal-based foods and other complementary foods, the provisions of the Diet Ordinance shall continue to apply (in German: <https://www.recht.bund.de/bgbl/1/2023/115/VO>).

Law on the protection of Whistleblower:

In order to implement the so-called "Whistleblower Directive" (Directive (EU) 2019/1937), the act for better protection of whistleblowers and for the implementation of the directive on the protection of persons reporting breaches of union law ("Hinweisgeberschutzgesetz") was published in the Federal Law Gazette on 2 June 2023 (in German: <https://www.recht.bund.de/bgbl/1/2023/140/VO>).

Definition nanomaterials – JRC guideline:

The Joint Research Centre (JRC) of the European Commission published a guide on the implementation of Commission Recommendation 2022/C 229/01 on the definition of nanomaterials. The guide provides an overview of the most important terms and concepts (<https://publications.jrc.ec.europa.eu/repository/handle/JRC132102>).

Novel Food – extension of the Union List:

The Commission Implementing Regulation (EU) 2017/2470 for the creation of the Union List of Novel Foods was modified through further implementing regulations and, therefore, the following approvals were granted:

- Cellobiose (Implementing Regulation (EU) 2023/943 dated 11 May 2023)
- Iron-milk caseinate (Implementing Regulation (EU) 2023/949 dated 12 May 2023).

Last update: 21 June 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 9 May and 3 July 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: 49	peanuts, dates, figs, pistachios, almonds, brazilian nuts, melon kernels (including products)			37
	rice, brown basmati rice, broken rice	India, Pakistan, Myanmar	B1: up 13.3 µg/kg	4
	rice crackers for infants and young children	Belgium	B1: 0.21 µg/kg	1
	nutmeg	Indonesia	B1: 40 µg/kg; total: 42 µg/kg	1
	turmeric, chili powder	Turkey, India	B1: up 13 µg/kg	2

Reason for Notifying	Product	Country of Origin	Notes	Number
	sesame seeds	Pakistan	B1: 14.1 µg/kg; total: 15.3 µg/kg	1
	maize flour	Italy	B1: 2.74 µg/kg	1
	roasted and salted corn	Hungary	B1: up 7.67 µg/kg; total: up 8.71 µg/kg	1
	Egusi seeds	Nigeria	B1: 10.0 µg/kg; total: 12.4 µg/kg	1
Ochratoxin A	sunflower seeds	Moldova	105.2 µg/kg	1
	muesli with nuts and almonds	Germany	23 µg/kg	1
	roasted coffee beans	Italy (raw mat. Kenya)	5.5 µg/kg	1
	dried figs	Turkey	20 µg/kg	1
	raisins, sultanas	Uzbekistan, Turkey	up 41 µg/kg	7
Deoxynivalenol (DON)	corn snacks	Poland	641.0 µg/kg	1
Zearalenone	mixed tocopherols	China	3,000 µg/kg	1
Heavy Metals / Other Metals				
Lead	asparagus	Spain	up 1.1 mg/kg	2
	chili flakes	UK	1.40 mg/kg	1
	food supplement	Czech Rep.	11.8 mg/kg	1
	Megrim (cornish sole)	Belgium		1
Cadmium	cuttlefish	Italy	up 1.78 mg/kg	1
	avocados, organic coconut flour, frozen onion cubes, frozen raspberries	Peru, Sri Lanka, Poland, Serbia	up 0.10 mg/kg	4
	organic cocoa powder	Italy	1.6 mg/kg dry matter	1
	dark chocolate (85% cocoa)	Ecuador	1.48 mg/kg	1
	fermented rice powder, rice	China, Italy	up 0.33 mg/kg	3
Mercury	fish/fish products	Italy (raw mat. France), Portugal, Spain, Morocco, Tunisia, Netherlands	up 2.8 mg/kg	7
Copper	preserved duck eggs	China	8.1 mg/kg	1
	asparagus	Spain	12.943 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chloroethanol	food supplement	India		1
	spice mixture, cumin seeds, curry powder, pepper, cayenne pepper, Ashwagandha, Sumak	India, Pakistan, Lebanon, Turkey		10
Benzalkonium chloride (BAC)	tangerines, lemons, grapefruits	Turkey	up 0.68 mg/kg	3
Cyclo-di-BADGE	sprats in oil	Latvia	2,692 µg/kg	1
Benzo(a)pyrene, PAH	sunflower oil	Turkey, Northern Macedonia	Benzo(a)pyrene: up 4.1 µg/kg; PAH: 19 µg/kg	2
	cinnamon, ground	Germany	PAH: 71.7 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
	valerian extract	France	PAH: 63.4 µg/kg	1
	food supplement	UK, France	Benzo(a)pyrene: 24.5 µg/kg; PAH: 113.7 µg/kg	2
Mineral oil	rice oil	Thailand		1
Acrylamide	potato chips	Ukraine, Kosovo, Latvia	up 2,330 µg/kg	3
Glycidyl esters	refined palm oil	Germany	1.19 mg/kg	1
Pyrrolizidine alkaloids (PA)	cumin	Turkey	up 23,813 µg/kg	5
	Oregano	Turkey	1,226.4 µg/kg	1
	chamomile tea	Poland	648 µg/kg	1
	Tea	Poland	240 µg/kg	1
Tropane alkaloids	teff flour	Spain, Germany, Sweden	Atropine: up 130.7 µg/kg; Scopolamine: up 41.8 µg/kg	3
	gluten-free cookies with teff flour, gluten-free chocolate cookies	France	35 µg/kg	2
	savory	Germany	Atropine: 1,001 µg/kg; Scopolamine: 1,068 µg/kg	1
Erucic acid	mustard oil	Bangladesh	up 490.3 g/kg	2
Histamine	fish, fish products	Spain, Sri Lanka, India, Belgium, Netherlands, Peru	up 1,988.7 mg/kg	7
Iodine	seaweed snacks, roasted nori seaweed	South Korea, China	up 61.1 mg/kg	2
	dried seaweed	South Korea	262.6 mg/kg	1
Cyanide	organic golden flax seeds	France		1
	apricot kernels	Turkey, Tadjikistan	up 2,904 mg/kg	4
	almonds	Netherlands	23.96 mg/kg	1
Pharmacological Active Substances				
1,3-Dimethylamylamine (DMAA), Dimethylhexylamine (DMHA)	food supplement	UK, Cyprus, USA		3
Cannabidiol (CBD), Cannabigerol (CBG)	food supplement	Germany		1
	CBD capsules	Netherlands		1
	organic aroma oil, organic hemp flavor oil, CBD oil	Switzerland, Austria, France		5
Hexahydrocannabinol (HHC)	fruit jelly	Austria		1
Tetrahydrocannabinol (THC)	CBD oil	Switzerland	878 mg/kg	1
Huperzine A	food supplement	USA, Canada, Lithuania		3
Melatonin	food supplement	Austria	3.54 mg/dosage	1
Chloramphenicol	honey	Romania	up 1.0 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Nitrofurantol metabolite	shrimps	India, Vietnam	up 7.8 µg/kg (AOZ)	3
Tetracycline	poultry meat	Spain	Doxycyclin: 143 µg/kg	1
	shrimps	Vietnam	Doxycyclin: > 500 µg/kg	1
Sibutramine	coffee and tea products	Turkey		1
Tadalafil	food supplement	Switzerland		1
Yohimbine	food supplement	Cyprus, USA, UK, India, Uzbekistan, Switzerland, unknown		15
Unauthorised Colours				
Brown FK (E 154)	cookies	Ukraine		1
Sudan I, III	sweet and sour sauce	Russia		1
Sudan III, IV	paprika seasoning preparation	Turkey		1
Sudan IV	palm oil	Guinea		1
Orange II	curry powder	India		1
Titanium dioxide (E 171)	instant drinks, food supplement, snack bars, candies	Lebanon, Netherlands, Sweden, Philippines, China		5
Miscellaneous				
Parasitic infestation with Anisakis	fish, fish products	Spain, France		5
GMO, not authorised	rice noodles	Vietnam		1
	papaya	Thailand		1
Foodborne disease outbreak	tuna, halva, tinned chili peppers	Spain, Vietnam, Syria, Turkey		4
Pathogenic Germs				
Salmonella total: 79	meat / meat products (including poultry)			55
	frog legs	Vietnam		1
	mussels	Canada, Italy, Portugal		3
	shrimps	Vietnam		1
	cheese, goat cheese	Spain		1
	eggs, whole egg powder	Poland, Bulgaria		2
	sesame / sesame products	Nigeria, Uganda, Turkey, India, Germany, Egypt		9
	halva	Syria, Turkey		3
	pumpkin seeds	Togo		1
	black pepper, basil, parsley	Brazil, Hungary, Egypt		3
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	Belgium, Netherlands, Italy, France, Slovakia, Spain		10
	raw milk cheese, raw milk goat cheese, sheep cheese, goat cheese	France, Greece		4

Reason for Notifying	Product	Country of Origin	Notes	Number
	Lamb`s lettuce, salad	France, Netherlands		2
	wheat pancakes	France		1
	organic vegetarian replacement product for animal products	Germany		1
	Natamycin	China		1
Shigatoxin producing E.coli (STEC)	deer meat, minced beef, beef, lamb meat, pigtail	New Zealand, France (raw mat. Poland), Brazil, Netherlands		5
	sheep cheese, goat cheese	Romania, France		2
<i>Campylobacter</i>	Besos Fuet, chicken breast fillet	Spain, Romania		2
<i>Vibrio cholerae</i> , <i>Vibrio parahaemolyticus</i> , <i>Vibrio vulnificus</i>	shrimps	Ecuador		7
Hepatitis A virus	frozen cultivated blueberries	Poland		1
Norovirus	oysters, mussels	France, Italy, Portugal		9

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