

Food Legislation News

No. 5 – October 2023

Statements of the ALS

The Working Group of Food Chemistry Experts from the 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)) prepared, amongst others, the following statements at its 120th conference:

Nutrition-related information for beverages with more than 1.2% alcohol by volume:

For beverages with an alcohol content of more than 1.2% by volume, only nutrition claims referring to a low alcohol content, a reduction of the alcohol content or a reduction of the calorific value are permitted (Art. 4(3) Regulation (EC) No. 1924/2006 (HCVO)). A reduction in the calorific value may be claimed if the properties leading to this reduction in the total calorific value are indicated. If, in this context, a sugar reduction is referred to, it is not a nutrition-related indication. In the opinion of the ALS, a claim regarding the sugar content can, therefore, be accepted in connection with the reduction of the calorific value, if it is clearly stated that this sugar content has led to the reduction of the calorific value (Statement No. 2023/01).

Levels of other carbohydrates in infant formulae and follow-on formulae with the claim "only contains lactose":

The statement "only contains lactose" represents a voluntary indication which is only permitted on the condition that lactose is the only carbohydrate present in the product. If other carbohydrates are added to the product by way of additives or by-products of ingredients, the claim may not be used. The natural glucose and galactose contents from milk-based ingredients remain unconsidered (Statement No. 2023/03).

Note:

Statements of the ALS 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/12_ALS/Im_ALS_node.html you can find further details in German and a current overview of the statements, the statements of the respective current session as well as the archive.

EFSA publications

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

Vitamin D:

On 8 August 2023, the final statement on the re-evaluation of the tolerable upper intake level (UL) of vitamin D was published. For adults (including pregnant and breastfeeding women), a UL of 100µg vitamin D equivalents per day was stipulated. From this, age-dependent ULs are derived for children. More details can be found at <https://www.efsa.europa.eu/de/efsajournal/pub/8145>.

News from the BfR

The German Federal Institute for Risk Assessment (BfR) published the following, amongst others:

Cannabinoids in hemp tea infusion:

A BfR team of researchers has determined the extent to which cannabinoids pass into the tea infusion on the basis of 23 hemp tea varieties. The examination of these hemp tea varieties showed that, on average, 0.5% of the tetrahydrocannabinol (delta-9-THC) passed into the tea infusion (Communication No. 33/2023 of 21 July 2023, <https://www.bfr.bund.de/cm/349/measured-what-amount-of-cannabinoids-is-transferred-into-the-hemp-tea-infusion.pdf>).

Bisphenol A – FAQ:

The catalogue of questions and answers on bisphenol A in everyday products was updated by the BfR on 13 July 2023 (<https://www.bfr.bund.de/cm/349/bisphenol-a-in-everyday-products-answers-to-frequently-asked-questions.pdf>).

C. difficile – FAQ:

The BfR compiled questions and answers on the intestinal germ *Clostridioides (C.) difficile* and its significance along the food chain (<https://www.bfr.bund.de/cm/349/c-difficile-an-intestinal-germ-with-pathogenic-potential.pdf>).

Mineral oil residues:

The European Food Safety Authority (EFSA) updated its assessment from 2012 including new data. The BfR shares EFSA's conclusions that the current intake levels of saturated mineral oil hydrocarbons (MOSH) are not a cause for concern, but that the intake levels of aromatic mineral oil hydrocarbons (MOAH) are still too high. In its communication, the BfR also emphasises that the contamination of food with mineral oil components is generally undesirable (Communication 35/2023 of 27 July 2023, <https://www.bfr.bund.de/cm/349/new-efsa-risk-assessment-some-mineral-oil-residues-in-food-remain-a-health-concern.pdf>).

On 31 July, the BfR updated its compilation of questions and answers regarding mineral oil components in food (<https://www.bfr.bund.de/cm/349/questions-and-answers-on-mineral-oil-components-in-food.pdf>).

Soya-containing foods and food supplements:

In its updated Communication No. 36/2023 of 2 August 2023, the BfR provides a brief overview of the current data situation regarding the health aspects related to the consumption of food and food supplements containing soya (<https://www.bfr.bund.de/cm/349/foods-and-food-supplements-containing-soy-health-aspects.pdf>).

MEAL nutrition study – final report:

On 28 July 2023, the final report of the BfR MEAL study was published. With its press release 14/2023 of 17 August 2023, the BfR highlighted the high standard of food safety in Germany (in German: https://www.bfr.bund.de/de/presseinformation/2023/14/bfr_meal_studie_bestaetigt_hohen_standard_der_lebensmittelsicherheit_in_deutschland-312272.html).

Protection against infections with Salmonella - FAQ:

The BfR updated its compilation of questions and answers regarding protection against infections with Salmonella on 24 August 2023 (in German: <https://www.bfr.bund.de/cm/343/fragen-und-antworten-zum-schutz-vor-infektionen-mit-salmonellen.pdf>).

Treatment of eggs with UV-C-LED light:

In the research project "UVegg", the BfR investigated whether the treatment of table eggs with UV-C LED radiation is suitable as an additional measure to reduce the risk of food infections by Salmonella and *Campylobacter*. The project showed that UV-C LED radiation reduces the number of bacteria on optically clean or slightly soiled egg surfaces, but higher degrees of soiling and larger amounts of bacteria sometimes significantly reduce the effect (Statement No. 038/2023 of 28 August 2023, in German: <https://www.bfr.bund.de/cm/343/verringert-die-behandlung-mit-uv-c-led-licht-die-anzahl-an-salmonellen-und-campylobacter-auf-eiern.pdf>).

Modifications regarding pesticides

Nicotine – maximum residue levels (MRL):

With Regulation (EU) 2023/1536 of 25 July 2023, the MRL for nicotine in different foods were adjusted (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1536>).

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:

Classification of zinc-containing products:

On 3 July 2023, the BVL published a statement of the Joint Expert Commission on the legal classification of zinc-containing products placed on the market as food. The Expert Commission is jointly chaired by the BVL and the Federal Institute for Drugs and Medical Devices (BfArM). According to the current estimates, the Expert Commission concludes that the supply of zinc via food in Germany can be assessed as good for most population groups. The Expert Commission shares the BfR's view, according to which zinc should generally not be added to fortified foods and that a maximum amount of 6.5 mg per day should not be exceeded in food supplements. Food supplements containing a daily dose of 3.5 mg zinc per day or higher should additionally be labelled with a note that no other zinc-containing food supplements should be consumed.

For the assessment of the safety of zinc-containing foods, the Joint Expert Committee uses the UL (Tolerable Upper Intake Level) of 25 mg per day which is derived by EFSA. The latter can already be exceeded by the general diet and therefore the Joint Expert Commission considers high-dose zinc-containing food supplements to be unsafe.

Links:

https://www.bvl.bund.de/SharedDocs/Fachmeldungen/01_lebensmittel/2023/2023_07_03_Stellungnahme_Zink.html (in German)

<https://www.bfr.bund.de/cm/349/proposed-maximum-levels-for-the-addition-of-zinc-to-foods-including-food-supplements.pdf>

Veterinary drugs:

The BVL published the announcements regarding the approval of veterinary drugs and other official acts as of 23 June and 7 July.

Links (in German):

https://www.bvl.bund.de/SharedDocs/Fachmeldungen/05_tierarzneimittel/2023/2023_06_23_Fa_Bekanntmachung_Zulassung_TA.html

https://www.bvl.bund.de/SharedDocs/Fachmeldungen/05_tierarzneimittel/2023/2023_07_24_Fa_Bekanntmachung_Zulassung_TA.html

https://www.bvl.bund.de/SharedDocs/Fachmeldungen/05_tierarzneimittel/2023/2023_08_11_Fa_Bekanntmachung_Zulassung_TA.html

Sentences

ECJ – deposit labelling:

On 29 June 2023, the European Court of Justice decided that the deposit amount for deposit containers is not part of the sales price. It may therefore be indicated separately (Case 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>).

The background to this was the corresponding question posed by the Federal Court of Justice (Ref. I ZR 135/20, in German: <https://www.bundesgerichtshof.de/SharedDocs/Pressemitteilungen/DE/2021/2021148.html>).

The term "climate neutral":

The Düsseldorf Higher Regional Court decided on the advertising of products with the term "climate neutral". In the case of a jam manufacturer, the labelling and advertising did not contain any information on how the advertised climate neutrality came about. In this respect, the claim was not legal (Judgment of 6 July 2023, I-20 U 72/22).

In the case of a fruit gum manufacturer, however, the court found that the necessary information was provided in a sufficient manner (I-20 U 152/22).

Both judgments are not yet in force. With regard to the fruit jelly manufacturer, the plaintiff has already filed an appeal with the Federal Supreme Court (Ref. I ZR 98/23).

Links (in German):

https://www.olg-duesseldorf.nrw.de/behoerde/presse/Presse_aktuell/20230706_PM_Urteil-klimaneutral/index.php

https://www.wettbewerbszentrale.de/de/home/_news/?id=3683

Indication of the protein content in "High Protein" products:

Both the Munich District Court and the Heilbronn District Court have ruled that the indication of the protein content separately from the nutritional value table is inadmissible (District Court Heilbronn, 6 July 2023, Ref. 21 O 7/23 KfH; District Court Munich I, 28 July 2023, Ref. 37 O 14809/22; both not final; in German: <https://www.wettbewerbszentrale.de/de/home/news/?id=3690>).

Miscellaneous

Drinking water ordinance:

On 23 June 2023, the amended Drinking Water Ordinance was published in the Federal Law Gazette and has been in force since 24 June 2023 (Federal Law Gazette 2023 I No. 159, in German: <https://www.recht.bund.de/bgbl/1/2023/159/VO>).

LMIDV – extended origin labelling:

The Second Ordinance amending the Food Information Implementing Regulation (LMIDV) of 3 August introduced an extended origin labelling for meat. In the future, the origin of non-prepackaged fresh, chilled and frozen pork, sheep, goat and poultry meat must be indicated. The regulation enters into force on 1 February 2024 (Federal Law Gazette 2023 I No. 209, 10 August 2023, in German: <https://www.recht.bund.de/bgbl/1/2023/209/VO>).

Sparkling wine bottles without foil capsule:

The Delegated Regulation (EU) 2023/1606 of 30 May 2023 makes it possible for producers of sparkling wines to sell bottles without a foil capsule. For operational reasons, such as cost savings, waste reduction or the improvement of marketing, provided that there is no safety risk from accidental opening or tampering of the holding device for the product, producers and bottlers should be able to dispense with the foil. The regulation entered into force on 28 August 2023 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1606>).

Additives E 422, E 471, E 475 and E 476:

With Regulation (EU) 2023/1329 of 29 June 2023, the conditions of use of polyglycerol polyricinoleate (E 476) and the specifications for glycerol (E 422), polyglycerol esters of fatty acids (E 475) and polyglycerol polyricinoleate (E 476) were modified. Furthermore, Regulation (EU) 2023/1428 of 7 July 2023 amended the specification for the additives mono- and diglycerides of fatty acids (E 471).

Links:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1329>

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1428&qid=1694464224661>

EU contaminants regulation – cadmium:

Through Regulation (EU) 2023/1510 of 20 July 2023, the EU Contaminants Regulation (Regulation (EU) 2023/915, previously Regulation (EC) No. 1881/2006) was modified as regards the maximum levels for cadmium in tiger nuts and certain cultivated mushrooms. The Regulation entered into force on 10 August 2023 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1510&qid=1694465004271>).

Last update: 30 August 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 4 July and 12 September 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: 60	peanuts, figs, pistachios, almonds (including products)			46
	basmati rice, rice, rice flour	Pakistan, Cambodia	B1: up 20.8 µg/kg; total: up 22.4 µg/kg	7
	organic rice cakes	Netherlands	B1: 0.28 µg/kg	1
	nutmeg	Turkey (raw mat. India), Indonesia, India	B1: up 116 µg/kg; total: up 173 µg/kg	4
	curcuma	India	B1: 15.5 µg/kg	1
	peperoncino (<i>Capsicum annuum</i>)	Sri Lanka	B1: 23.1 µg/kg; total: 23.7 µg/kg	1
Ochratoxin A	ground coffee	Kenya, unknown	up 10.7 µg/kg	2
	dried figs, fig almond bread, almond/fig slices	Turkey, Spain	up 96 µg/kg	3
	paprika powder, cayenne pepper, spice mix, spice preparation, ground nutmeg	unknown, Turkey, Togo, Indonesia	up 92 µg/kg	5
	rye flakes, wheat	Latvia, France	up 10.2 µg/kg	2
	raisins, mulberries	Uzbekistan, China, Turkey	up 23 µg/kg	5
	sunflower seeds	Bulgaria, Moldova	up 31.6 µg/kg	2
	pistachios	Iran	87 µg/kg	1
Deoxynivalenol (DON)	corn grits	Ukraine	up 1,583 µg/kg	2
	flour	Germany	2,767 µg/kg	1
Patulin	apple juice	Denmark	67 µg/kg	1
Heavy Metals/Other Metals				
Lead	baby food	Czech rep.	0.060 mg/kg	1
	wild boar salami	Hungary	0.23 mg/kg	1
	brahmi powder	India	4.36 mg/kg	1
Cadmium	squid, octopus, mussels	Italy, China, Chile	up 2.68 mg/kg	3
	avocados, strawberries, mangosteen	Peru, Belgium, Vietnam	up 0.098 mg/kg	3
	dried spinach	Poland	6.5 mg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
	celery root	Czech rep.	0.31 mg/kg	1
	rice	Italy	up 0.992 mg/kg	4
	cocoa liquor, drinking chocolate	Venezuela, Colombia	up 1.5 mg/kg	2
	horse quarter	Poland	307.93 µg/kg	1
	horse carcasses (kidneys)	Germany	up 42.1 mg/kg	1
Mercury	fish/fish products	Mauritania, Spain, Morocco, Italy, unknown	up 3.62 mg/kg	13
	food supplement	Poland	up 1,141 mg/kg	1
Arsenic	mineral water	Turkey	0.01268 mg/l	1
Copper	preserved, fermented duck eggs	China	up 6.5 mg/kg	2
Other Contaminants/Residues				
Ethylene oxide, 2-Chloroethanol	food supplement	India		3
	dried beans	Canada, Egypt		2
	spice mix, spice preparation	Pakistan, UK, India		4
	Boswellia Serrata extract	India		1
Benzalkonium chloride (BAC)	grapefruits, savoy cabbage, lemons	Turkey, Portugal	up 1.9 mg/kg	3
Chlorate	poultry meat preparation	Thailand	up 4.8 mg/kg	5
Benzo(a)pyrene, PAH	smoked fish	Ghana	Benzo(a)pyrene: up 38.4 µg/kg; PAH: up 239 µg/kg	2
	brahmi powder	India	PAH: 424 µg/kg	1
	food supplement Spirulina	Russia	PAH: 62.99 µg/kg	1
	organic rice wafers	Belgium	PAH: 5.5 µg/kg	1
Mineral oil (MOSH, MOAH)	basmati rice	India, Pakistan	up 8.0 mg/kg	3
	organic olive oil	Spain	MOSH/POSH: 34 mg/kg; MOAH: 8.26 mg/kg	1
	bouillon cube	Belgium	50 mg/kg	1
Acrylamide	potato chips	Serbia	1,196 µg/kg	1
	vegetable chips	Netherlands	up 2,681 µg/kg	2
	oat meal cookies	Ukraine	518 µg/kg	1
	rye flakes	Poland	1,079 µg/kg	1
3-Monochloro-1,2-propanediol (3-MCPD)	cassava crisps	Netherlands	up 5,213 µg/kg	2
	fish oil, fish oil softgel	China, Colombia	up 3,200 µg/kg	2
	oil, rice oil	Netherlands, Spain	up 3,400 µg/kg	2
Glycidyl esters	rice oil, peanut oil	Spain, unknown	up 1,900 µg/kg	2

Reason for Notifying	Product	Country of Origin	Notes	Number
Pyrrolizidine alkaloids (PA)	cumin	Turkey, Poland (raw mat. India)	up 2,074 µg/kg	2
	oregano	Turkey	4,285 µg/kg	1
	tarragon	France	1,120 µg/kg	1
	herbal infusion	China	786 µg/kg	1
Tropane alkaloids	teff flour	Germany	Atropine: 463.9 µg/kg; Scopolamine: 158.6 µg/kg	1
	brown millet	Italy	Atropine: 119.8 µg/kg	1
	cereal biscuits	France	13.0 µg/kg	1
	sourdough powder	France	40 µg/kg	1
	white maize flour	France	up >355.6 µg/kg	1
Shellfish poisoning toxins (ASP, DSP)	mussels	UK	ASP: 30 mg/kg	1
	mussels	France	DSP: 594.2 µg/kg	1
Erucic acid	mustard oil	India	44.39 %	1
Histamine	fish, fish products	Spain, France, Netherlands, Italy, unknown	up 632 mg/kg	9
Iodine	dried seaweed	China, South Korea	up 65 mg/kg	2
Cyanide	apricot kernels	Germany, Greece	up 2,544.5 mg/kg	3
	cassava flour	Nigeria	116.5 mg/kg	1
	food supplement	Bulgaria	10,605.2 mg/kg	1
Pharmacological Active Substances				
Hydroxyanthracene derivates (Aloe-Emodin, Emodin)	food supplement	Belgium		2
Coumatetralyl	cow carcass	Netherlands		1
Cannabidiol (CBD)	food supplement	Austria, Netherlands, Switzerland, unknown (online)		4
	CBD oil, CBD concentrate, CBD spray	Switzerland, Austria, Italy, Spain, Netherlands		5
	hemp tea, carbonated beverage "CBD Cola"	Cyprus, France		2
Hexahydrocannabinol (HHC)	gummies	USA		1
Tetrahydrocannabinol (THC)	CBD oil, CBD spray	Czech rep., Italy, Switzerland, Slovenia	up 0.114 g/100 g	4
	hemp-herbal tea, cookies, cannabis chocolate, gummies	Netherlands, Slovenia, Czech rep., USA	up 1,130 mg/kg	4
	food supplement	Netherlands	125.4 mg/kg capsule content	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Malachite green, Leucomalachite green	shrimps	Vietnam, Bangladesh	Malachite green: 6.07 µg/kg; Leukomalachite green: up 1.25 µg/kg	2
	frozen fish	Vietnam	Leukomalachite green: up 3.2 µg/kg	2
Chloramphenicol	propolis extract	China	0.96 µg/kg	1
Ciprofloxacin	honey	Czech rep.	35.5 µg/kg	1
Enrofloxacin, Trimethoprim,	honey	Mexico	Enrofloxacin: 6.8 µg/kg; Trimethoprim: 2.4 µg/kg	1
Flubendazole	eggs	Belgium	>800 µg/kg	1
Lincomycin	pork	Spain	>150 µg/kg	1
Tulathromycin	turkey meat	Poland	11.7 µg/kg	1
Nitrofurantol metabolite	salted sheep intestine	Pakistan, China	0.6 µg/kg (AOZ); 0.68 µg/kg (SEM)	2
Tetracycline	poultry meat	Poland	Doxycycline: 422.0 µg/kg	1
	poultry meat	Brazil	Oxytetracycline: 167 µg/kg	1
	shrimps	Vietnam	Oxytetracycline: 354 µg/kg	1
Synephrine	food supplement	South Africa		1
Sibutramine	coffee and tea products, detox tea, food supplement	Turkey		4
Sildenafil	tea, detox tea, honey paste, herbal paste, food supplement	Turkey, Greece		6
Tadalafil	sticks of aphrodisiac honey, honey paste, herbal paste	Spain, Turkey		3
Vardenafil	food supplement	China		1
Unauthorised Colours				
Sudan I	spice mix, sweet and sour sauce	Uzbekistan, Russia		2
Sudan IV	curry powder	Vietnam		1
Titanium dioxide (E 171)	confectionery, pastries, several products	USA, China, Turkey, Mexico, Northern Ireland, Brazil		6
Miscellaneous				
Parasitic infestation with Anisakis	fish, fish products	Spain, France, Morocco, UK		6
GMO, not authorised	rice noodles, rice wafers	Vietnam, Netherlands		4
	papaya	Thailand		1
	crunchy fish fillet (maize)	China		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Unauthorised irradiation	frog legs	Vietnam		1
	horseradish powder	China		1
	food supplement	USA		1
Foodborne disease outbreak	potato omelette, vernison and wild boar meat, tuna	Spain		3
	organic substitute product for animal products (cheese)	Germany		1
	long life milk	Belgium		1
	food supplement	Sweden		1
	eggs	Poland		1
	black olives	Italy		1
Pathogenic Germs				
Salmonella total: 114	meat / meat products (including poultry)			77
	fish, fish products, mussels	Croatia, Belgium, Thailand, Netherlands		4
	egg powder, eggs	Hungary, Poland		4
	sesame / sesame products, tahini, halva	Mali, Turkey, India, Pakistan, Nigeria, Jordan, Syria, Egypt		17
	baby leaf salad, salad mix, organic sprouts	Germany, Italy, Netherlands		3
	organic paprika powder, black pepper, organic lemon thyme, parsley	Spain, Brazil, Italy, Egypt		6
	walnut kernels	USA		2
	caramelised almond ice cream	France		1
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	France, China, Poland		6
	fish, fish products	Norway, Lithuania Poland, Denmark, Czech rep., Serbia, Spain, Turkey		11
	cheese, soft cheese, sheep cheese	Switzerland, France, Germany		6
	green beans	Poland		1
	ice cream	Ukraine		1
<i>Bacillus cereus</i>	ground caraway, dried mushrooms	Spain, Vietnam		2
Shigatoxin producing E.coli (STEC)	beef, minced beef	Brazil, Belgium (partly raw mat. Poland)		5
	cheese, raw milk goat cheese, feta	Italy, France, Greece		6
	coriander	Morocco		1

Reason for Notifying	Product	Country of Origin	Notes	Number
<i>Staphylococcus aureus</i> , staphylococcal enterotoxins	pork dish (babi pangang), milk	Netherlands, UK		2
<i>Vibrio cholerae</i> , <i>Vibrio</i> <i>vulnificus</i>	shrimps	Ecuador		17

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