

No. 5 – October 2020

Publications of the BVL

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

■ Food fraud – OPSON IX: in its press release from 22 July 2020, the BVL provided the information that, within the scope of the worldwide OPSON IX operation, which is coordinated by Europol and INTERPOL, eleven European countries took action against food fraud. In Germany, the authorities put an emphasis on the examination of olive oil and the declaration of natural vanilla in foods. 19 out of 83 examined samples of "extra virgin" olive oil were fraudulent. Furthermore, abnormalities were ascertained in 36 out of a total of 208 checks of vanilla-containing products (e.g. natural vanilla was substituted by ethylvanillin).

For details and further-leading links, please refer to https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2020/2020_07_22_PI_OPSON-IX.html (in German with links in English).

■ Ayurvedic products – classification: in order to provide supervisory authorities with a guideline for the classification of ayurvedic products, a statement was published regarding this subject. For the decision as to whether it is foodstuff or a pharmaceutical product, a case-by-case review is indispensable (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldungen/01_lebensmittel/2020/2020_07_23_Einstufung_ayurvedische_Produkte.html).

■ Early warnings 2019: on 30 July 2020, a report from the European rapid alert system for food and feed (RASFF) was published as a press release for 2019 (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2020/2020_07_30_PI_RASFF-Bericht.html).

■ Veterinary drugs: the BVL published the notice regarding the approval of veterinary drugs and other official acts dated 24 June 2020 (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldung/en/05_tierarzneimittel/2020/2020_08_06_Fa_Bekanntmachung_Zulassung_TA.html).

Modifications regarding pesticides

■ Chlorpyrifos-methyl, chlorpyrifos – update: with the implementing regulations (EU) 2020/17 and 2020/18 of the commission dated 10 January 2020, the non-renewal of the approval for the active agents chlorpyrifos-methyl and chlorpyrifos was settled. The regulations came into force on 16 January and the Member States had to revoke the corresponding approvals until 16 February 2020. Any periods of allowed use ended at the latest on 16 April 2020 (Official Journal L 7 dated 13 January 2020, pages 11 and 14). The respective maximum residue level was now reduced to 0.01 mg/kg as amended by Ordinance (EU) 2020/1085 as from 23 July 2020 (including the correction of the ordinance that was published on 30 July) (Official Journal L 239/7 dated 24 July 2020, page 7; Official Journal L 245 dated 30 July, page 32).

Note:

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

(https://www.bvl.bund.de/EN/Tasks/04_Plant_protection_products/01_ppp_tasks/02_ppp_AuthorisationReviewActSub/01_ppps_authorised/ppp_authorised_node.html).

News from the BfR

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

■ Aluminium: the catalogue of questions and answers (FAQ) regarding aluminium in foods and consumer goods was updated (https://www.bfr.bund.de/en/faqs_about_aluminium_in_food_and_products_intended_for_consumers-191148.html).

Subsequent to the evaluation of recent studies, the BfR considers health impairments regarding the intake of aluminium via the skin through antiperspirants to be unlikely (Statement No. 030/2020; <https://www.bfr.bund.de/cm/349/new-studies-on-antiperspirants-containing-aluminium-impairments-to-health-unlikely-as-a-result-of-aluminium-uptake-via-the-skin.pdf>).

- Vitamin D in food supplements: the daily intake of high doses of food supplements with vitamin D doses of 50µg or 100µg is not necessary from a nutritional point of view. Consumed on an occasional basis, health impairments are unlikely. However, the current data indicates that the long-term daily intake of high-dosage vitamin D preparations means an increased health risk (in German: <https://www.bfr.bund.de/cm/343/vitamin-d-einnahme-hochdosierter-nahrungs-ergaenzungsmittel-unnoetig.pdf>).

- Keeping meals warm: as a protection against foodborne diseases, the BfR recommends keeping heated meals hot in such a manner that they maintain a temperature of at least 60°C at all points until being consumed (updated Statement No. 037/2020; <https://www.bfr.bund.de/cm/349/prevention-of-food-borne-illness-when-keeping-food-hot.pdf>).

Sentences

- Nutrition information "per portion" on the front side of a cereal pack – the ECJ must decide: primarily, the Higher Regional Court of Hamm argued that the unsolicited repetitive indication of nutritional values on the front side of the package of crunchy cereals that refers to the prepared portion of the product is considered to be consonant with the Food Information Regulation (Higher Regional Court Hamm, 4 U 130/18, sentence from 13 June 2019). The District Court of Bielefeld, however, as a court of lower instance, still argued in its sentence on 8 August 2018 (Ref. 3 O 80/18) that an indication of the energy value per 100 g of the non-prepared product would also be necessary on the front side. Now, the Federal Supreme Court has asked the European Court of Justice for clarification in the dispute over the nutrition information in its order for reference dated 23 July 2020 (Federal Supreme Court Ref. I ZR 143/19; in German: <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&az=I%20ZR%20143/19&nr=109023>).

- Ingredient and allergen labelling regarding online orders: on 7 May 2020, the Higher Regional Court of

Düsseldorf decided that an online delivery service must provide correct information on the allergens and additives *prior to* the order (Ref. I – 15 U 82/19). An advice according to which only the indications on the packaging are binding, is considered to be inadmissible by the Court (in German: https://www.vzbv.de/sites/default/files/downloads/2020/06/19/olg_duesseldorf_07.05.2020_eismann.pdf)

Miscellaneous

- Maximum residue limit ordinance amended: with the 23rd amendment of the maximum residue limit ordinance, the pesticides diethyl toluamide (DEET) and icaridin were removed from the scope of application of the ordinance (Federal Law Gazette Part I No. 36, dated 24 July 2020, page 1699). The ordinance came into force on 25 July 2020 and – from this date on – the previous maximum residue content of 0.01 mg/kg no longer applies. With this, the reference values that have been agreed at the European level in September 2018 and that were not legally binding for the intra-Community trade (https://ec.europa.eu/food/sites/food/files/safety/docs/reg-com_toxic_20180917_sum.pdf) are also applicable in Germany.

- Novel Food – Vitamin D2 mushroom powder: with the implementing regulation (EU) 2020/1163, the marketing of vitamin D2 mushroom powder was approved as a novel food (Official Journal L 258 dated 7 August 2020, page 1).

- Revised version of guiding principles: on 2 July 2020, revised versions of the "Guiding principles for edible mushrooms and edible-mushroom products" and of the "Guiding principles for edible fats and oils" were published in the Federal Gazette (Mushrooms, in German: <https://www.bmel.de/SharedDocs/Downloads/DE/Ernaehrung/Lebensmittel-Kennzeichnung/LeitsaetzePilze.html;jsessionid=04AC47DCDF02FEAC6104AD6B6A566359.internet2852>;

- Oils/fats, in German: <https://www.bmel.de/SharedDocs/Downloads/DE/Ernaehrung/Lebensmittel-Kennzeichnung/LeitsaetzeSpeisefette.html;jsessionid=04AC47DCDF02FEAC6104AD6B6A566359.internet2852>).

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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 1 August 2020 and 15 September 2020**.

Source:

<https://webgate.ec.europa.eu/rasff-window/portal/?event=notificationsList&StartRow=1>

Reason for Notifying	Product	Country of Origin	Notes	Number
Mycotoxins				
Aflatoxins total: 43	figs, pistachios, peanuts, almonds (including products)			34
	black pepper, ginger, berbere spice, spice mix	Nigeria, Hungary (raw mat. Poland), Ethiopia, Pakistan	B1: up 31 µg/kg; total: up 34 µg/kg	5
	basmati rice, red rice, wheat flour	Pakistan, Sri Lanka, Nepal	B1: up 8.9 µg/kg; total: up 11 µg/kg	3
	candies with peanuts	Ukraine (raw mat. India)	B1: 3.57 µg/kg; total: 4.10 µg/kg	1
Ochratoxin A	raisins	Slovakia	44.93 µg/kg	1
	basmati rice, red rice	unknown, Sri Lanka	up 10.3 µg/kg	2
	liquorice root	raw mat. Ukraine	63.85 µg/kg	1
Deoxynivalenol (DON)	noodles	China	1,178 µg/kg	1
	wheat	Czech Republic		1
Fumonisin	corn flour	Peru	up 18,255 µg/kg	2
Zearalenone	wheat	Czech Republic		1
Heavy Metals / Other Metals				
Lead	seaweed	Japan	2.88 mg/kg	1
	counterfeit crushed curcuma	India	2,020 mg/kg	1
Cadmium	horse meat	Poland	0.9873 mg/kg	1
	chocolate	Spain (raw mat. Venezuela)	1.06 mg/kg	1
	cocoyam fufu flour	USA	0.118 mg/kg	1
	organic nori sheets	Belgium (raw mat. North Korea)	2.3 mg/kg	1
Mercury	fish / fish products	Spain, Mozambique	up 5.1 mg/kg	6
	counterfeit crushed curcuma	India	6 mg/kg	1
Arsenic	seaweed	Japan	75.6 mg/kg	1
Boron	mineral water	Romania	2.7 mg/l	1
Chromium	counterfeit crushed curcuma	India	503 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide	sesame seeds	India	30.1 mg/kg	1
Benzo(a)pyrene, PAH	red palm oil	Togo	Benzo(a)pyrene: 4.34 µg/kg; PAH: 25 µg/kg	1
	banana chips	Poland	Benzo(a)pyrene: 5.6 µg/kg	1
	cocoa powder	Netherlands	PAH: 38.7 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
Dioxins	eggs	Germany	7.82 pg WHO TEQ/g	1
Acrylamide	cookies	India, Russia	up 3,964 µg/kg	3
Mineral oil	raisins	Iran		1
3-Monochlor-1,2-propanediol (3-MCPD)	pastries	Russia, Israel, Oman, India	up 5,299 µg/kg	4
Glycidyl esters	vegetable ghee (vegetable fat)	United Arab Emirates	4,100 µg/kg	1
	rice oil	India	4,644 µg/kg	1
	spreadable fat	Belgium	1,903 mg/kg	1
	pastries	India, Russia, Israel, Oman	up 4,697 µg/kg	6
Tropane alkaloids (Atropine, Scopolamine)	brown millet	Germany	Atropine: 24.2 µg/kg; Scopolamine: 13.3 µg/kg	1
Shellfish Poisoning toxins (DSP)	live mussels	Italy	up > 320 µg/kg	2
Iodine	seaweed	Japan	3,300 mg/kg	1
	organic nori sheets	Belgium (raw mat. North Korea)	40 mg/kg	1
Pharmacological Active Substances				
Dehydroepiandrosterone (DHEA), 1,3-Dimethylamylamine (DMAA), 2-Amino-6-methylheptane (DMHA)	food supplement	unknown		1
Dimethylethanolamine (DMEA)	food supplement	USA, unknown		2
Cannabidiol (CBD)	CBD drops	Poland	31.69 mg/kg	1
	oil with hemp extract	Switzerland		1
	organic hemp drops	Austria	19,888 mg/kg	1
Tetrahydrocannabinol (THC)	CBD oil	Netherlands	573.1 mg/kg	1
	oil with hemp extract	Switzerland	1,673 mg/kg	1
	organic hemp drops	Austria	838.2 mg/kg	1
	hempseed oil	Croatia	9,281.1 mg/kg	1
Melatonin	food supplement	unknown		1
Morphine	poppy seeds	Slovakia	14 mg/kg	1
Nitrofurans/-metabolites	shrimps	India	4.7 µg/kg (AOZ)	1
Yohimbine	food supplement	unknown		1
Unauthorised Colours				
Sudan I	grill spices	Uzbekistan		1
Miscellaneous				
Specified risk material (SRM) (tonsils)	bovine tongues	UK		1
Parasitic infestation with Anisakis	cod, John Dory	Iceland, Morocco		4
Pyrrrolizidine alkaloids (PA)	aniseeds	Germany (raw mat. Egypt)	up 12,184 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
	cumin	Syria	57,827 µg/kg	1
Unauthorised irradiation	food supplement	Sweden (raw mat. China)		2
GMO, not authorised	rice cakes	China		1
	papain enzyme	Germany		1
Foodborne disease outbreak	frozen tellins (<i>Donax trunculus</i>)	Turkey		1
	tuna (<i>Thunnus albacares</i>)	Sri Lanka	Histamine: 434mg/kg	1
	fuet sausage	Spain		1
	brazil nuts	Bolivia		1
	frozen chicken thighs	Romania		1
Pathogenic Germs				
Salmonella total: 84	meat / meat products (including poultry)			45
	fish products	Italy		1
	blue mussels (<i>Mytilus edulis</i>)	Sweden		1
	eggs / egg products	Bulgaria, Ukraine, Poland		3
	gouda cheese cubes	Netherlands		1
	betel leaves	Thailand		4
	coconut	Italy (raw mat. Cote d'Ivoire and France)		1
	rucola	Poland (raw mat. Italy)		1
	black pepper, pepper, basil, paprika, mix of condiments	Brazil, Cambodia, Laos, Spain, Belgium		20
	sesame seeds	Nigeria, Turkey, India		5
	pine nuts	Turkey		1
salad made of rice, vegetables, eggs and tuna	France		1	
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	France, Belgium, Ireland, Thailand, Switzerland (raw mat. Austria)		8
	fish / fish products	Poland		3
	goat cheese	France		1
	organic rucola	Sweden		1
	"Pulled Oats"	Finland		1
Shigatoxin-producing E.coli (STEC)	beef, minced beef, veal meat, lamb meat	Belgium, Argentina, France, New Zealand, Uruguay		7
	raw goat's milk cheese	France		1
<i>Bacillus cereus</i>	food supplement	Sweden (raw mat. China)		3
	cooked whole scorpions (<i>Mesobuthus martensii</i>)	Thailand		1
	paella	Belgium		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Hepatitis A virus	live mussels	Italy		1
	dried tomatoes	Turkey		1
Noroviren	frozen berries / frozen berry mix	Poland, Netherlands, Germany		3

Created:

Susanne Ermert-Knauf
Eurofins Analytik GmbH
Neuländer Kamp 1
D-21079 Hamburg

Phone +49-40-49294-1741
SusanneErmert-Knauf@eurofins.de

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