



Food Legislation News

No. 1 – February 2021

News from the BfR

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

Ethylene oxide:

Ethylene oxide residues in sesame seeds were evaluated with regard to health (Statement No. 056/2020 dated 23 December 2020). When observing the maximum residue level of 0.05 mg/kg, neither children nor adults will exceed the determined intake of low concern at an average consumption over a longer period of time. Since ethylene oxide is mutagenic and carcinogenic, residues in foods are undesirable (in German: <https://www.bfr.bund.de/cm/343/gesundheitsliche-bewertung-von-ethylenoxid-rueckstaenden-in-sesamsamen.pdf>).

Food trend "Dragon's Breath":

The BfR points out that, when consuming foods that are cooled by means of liquid nitrogen – so-called "dragon's breath" products, health risks are possible due to extreme cold. Injuries of the tongue/oral mucosa and also damage to the teeth are supposable (Communication No. 055/2020 as from 25 November 2020, <https://www.bfr.bund.de/cm/349/food-trend-dragon-breath-cool-snack-burnt-mouth.pdf>).

BfR2GO:

Issue 2/2020 of the BfR's science magazine ("BfR2GO") was published and is available at <https://www.bfr.bund.de/cm/364/bfr-2-go-issue-2-2020.pdf>.

Coronavirus - FAQ:

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

EFSA publications

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

Nickel in foods and drinking water:

The risk assessment of nickel in foods and potable water was updated. On the basis of recent data, a new value for the tolerable daily intake (TDI) of 13 µg/kg body weight was deduced. For further details, please refer to <https://www.efsa.europa.eu/de/efsajournal/pub/6268>.

Minimum durability or shelf life:

In their press release dated 2 December 2020, the EFSA introduced a new tool which will support food enterprises in their decision as to whether or not a best-before date or shelf life must be indicated (<https://www.efsa.europa.eu/en/news/use-or-best-new-tool-support-food-operators>).

Modifications regarding pesticides

Maximum residue levels (MRL):

With regulations (EU) 2020/1565, 2020/1566 and 2020/1633, the maximum residue levels of the following pesticide active agents were modified:

Azinphosmethyl, bentazone, bifenazate, bupirimate, carfentrazone-ethyl, chlorantraniliprole, chlormequat, cyprodinil, dimethomorph, ethirimol, fludioxonil, flufenoxuron, mandipropamid, 1-methylcyclopropene, oxadiazon, phosalone, pyraclostrobin, pyridaben, pyriofenone, tall oil, teflubenzuron.

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

Further publications of the BVL

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

Annual reports 2019:

On its homepage, the BVL published different annual reports regarding the subject of food safety (in German: https://www.bvl.bund.de/DE/Service/01_Infothek/03_berichte/infothek_berichte_node.html).

The zoonosis monitoring 2019 particularly shows that raw milk can contain disease-causing germs, for example (Press Release dated 19 November 2020, in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2020/2020_11_18_PI_Zoonosen_Monitoring_2019.html).

Food supplements:

"Food supplements can neither prevent nor heal a COVID-19 affection". This statement was published by the BVL in its press release as from 24 November 2020, and advises against products with such advertising promises (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2020/2020_11_24_PI_EU_Kontrollplan_NEM.html).

Cannabidiol (CBD):

According to the BVL, no binding statement can be made as to whether or not CBD-containing products can be marketed as foods prior to the completion of the approval procedure as a novel food (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2020/2020_12_15_PI_CBD.html).

Veterinary drugs:

The BVL released the publication regarding the approval of veterinary drugs and other official acts dated 30 November 2020 (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldungen/05_tierarzneimittel/2020/2020_12_23_Fa_Bekanntmachung_Zulassung_TA.html).

Sentences

ECJ – CBD can be a food:

According to the sentence of the European Court of Justice (ECJ) as from 19 November 2020 (C 663/18), cannabidiol products can be classified as foodstuffs. Therefore, the European Commission resumes the initially suspended examination of the applications for approval as a novel food according to the Novel Food Regulation (Regulation (EU) 2015/2283).

Links:

https://ec.europa.eu/germany/news/20201203-cannabidiol-produkte_de (in German)

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=D57221CF36F4024809092BD7E3091BE4?text=&docid=233925&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=16890223>

ECJ – Anaesthetisation may also be stipulated for ritual slaughter:

The Member States may stipulate anaesthetisation for ritual slaughter in order to promote animal welfare (ECJ, 17 December 2020, C-336/19; <http://curia.europa.eu/juris/document/document.jsf?docid=235717&text=&dir=&doclang=EN&part=1&occ=first&mode=DOC&pageIndex=0&cid=1442870>).

Claim "bekömmlich" (salubrious) for coffee:

The Higher Regional Court of Munich declared that the claim "bekömmlich" (salubrious) for coffee produced through long-term drum roasting is an inadmissible health-related indication in accordance with the Health Claims Regulation (Regulation (EC) 1924/2006) (Higher Regional Court of Munich, 11 February 2020, Ref. 29 W 1562/19; in German: <https://www.beckmannundnorda.de/serendipity/index.php/?archives/5238-OLG-Muenchen-Wettbewerbswidriger-Verstoss-gegen-HCVO-durch-Werbung-fuer-Kaffee-mit-bekoemmlich-durch-Langzeit-Trommelroestung.html>).

Miscellaneous

Postponement of the date of application of the EU Regulation on Organic Farming:

On 13 November 2020, Regulation (EU) 2020/1693 was published in the Official Journal of the European Union, with which the date of application of the EU Regulation on Organic Farming (2018/848) is postponed by one year to 1 January 2022 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R1693&from=EN>).

New german prepackaging regulation:

On 30 November 2020, the revised version of the prepackaging regulation that came into force on 1 December 2020 was published in the Federal Gazette. With the amendment, the national legislation was adapted to European regulations and duplicate provisions abrogated. The substance of many of the already existing provisions was incorporated but they were rearranged.

However, there were also some modifications. The tolerance limits regarding the drained net weight, for example, were lowered. Initially, the negative error regarding the declared drained net weight could amount to the triple tabular value. In the new version, according to Section 10 Clause 3, this deviation only applies to prepackages that are "...predominantly manufactured by hand or contain naturally grown foods...".

As regards the type size regulation of the figures on multipacks according to Section 38 Clause 4, a transitional provision will apply until 1 November 2021.

Links (in German):

<https://www.bmwi.de/Redaktion/DE/Artikel/Service/verordnung-zur-novellierung-des-fertigpackungsrechts.html>

https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&jumpTo=bgbl120s2504.pdf#bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl120s2504.pdf%27%5D_1611577029268

Pyrrolizidine alkaloids (PA) – Maximum contents were published:

With Regulation (EU) 2020/2040 dated 11 December 2020, the maximum levels for pyrrolizidine alkaloids were determined within the scope of the EU Contaminants Regulation (1881/2006). These maximum contents will apply from 1 July 2022 and the period of allowed use will end on 31 December 2023 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R2040&from=EN>).

Drinking water directive:

On 23 December 2020, the "Directive (EU) 2020/2184 of the European Parliament and the Council of 16 December 2020 on the quality of water intended for human consumption" was published in the Official Journal. The directive came into force on 12 January 2021 and must be transposed into national law until 12 January 2023 by the Member States (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020L2184&from=EN>).

Additives – allowed colouring agents in salmon substitute:

With regulation (EU) 2020/1819 dated 2 December 2020, the colouring agents sunset yellow S (E 110) and cochineal red A (E 124) were also approved for salmon substitute on the basis of *Clupea harengus*. The regulation came into force on 23 December (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R1819&fro=EN>).

Last update: 6 January 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 November 2020 and 19 January 2021**.

Source:

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

Reason for Notifying	Product	Country of Origin	Notes	Number
Mykotoxins				
Aflatoxins total: 78	figs, hazelnuts, pistachios, peanuts, almonds, sunflower seeds, watermelon seeds (including products)			72
	crushed chillies, chilli powder	India	B1: up 18.8 µg/kg; total: up 19.5 µg/kg	3
	banku mix	Ghana	B1: 106 µg/kg; total: 119 µg/kg	1
	brown basmati rice	India	B1: 24 µg/kg; total: 27 µg/kg	1
	rice	Pakistan	B1: 3.1 µg/kg; total: 2.2 µg/kg	1
Ochratoxin A	figs	Turkey	up 131 µg/kg	5
	pastry flour	Belgium	5.6 µg/kg	1
	licorice root powder	Netherlands	91 µg/kg	1
	pistachios	USA	32.8 µg/kg	1
	watermelon seeds	Turkey		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Deoxynivalenol (DON)	popcorn	Hungary	2,174 µg/kg	1
	wheat	Czech Republic		1
Fumonisin	organic corn waffles	Slovakia	up 1,130 µg/kg	1
Heavy Metals / Other Metals				
Lead	cuttlefish	Tunisia	0.45 mg/kg	1
	canned chopped tomatoes	Italy	0.24 mg/kg	1
	canned pears	China	0.181 mg/kg	1
Cadmium	mussels	Chile	1.92 mg/kg	1
	squids, cuttlefish, squids tentacles, shortfin squid	Thailand, Vietnam, Spain, Portugal	up 6.3 mg/kg	7
	mackerel	Greenland	0.1985 mg/kg	1
	gluten and lactose-free product for infants and toddlers	Poland (raw material Italy)	up 0.067 mg/kg	1
	garlic / garlic products	China, Spain	up 0.124 mg/kg	3
	horse`s liver	Denmark	0.72 mg/kg	1
Mercury	fish / fish products	Vietnam, Spain, South Korea, Greece	up 2.5 mg/kg	7
Arsenic	food supplement	Germany	13 mg/kg	1
Aluminium	food supplement	Czech Republic	3,792 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide	sesame seeds	India, Netherlands, France, Germany, Burkina Faso, Nigeria, Bolivia (raw mat. India)	up 40 mg/kg	197
	bakery products, baking mixes, muesli	Italy, Spain, France, Belgium, Czech Rep., Netherlands, Germany, Austria, Switzerland, Sweden, Denmark, Luxembourg, Slovakia, Bosnia and Herzegovina		53
	sesame paste (tahini)	India, Greece, Netherlands, Spain	up 7.2 mg/kg	4
	sesame flour	Germany (raw mat. India)	0.678 mg/kg	1
	seame oil	Germany, Italy	up 8.3 mg/kg	3
	amaranth	India	up 0.074 mg/kg	3
	seeds mixes, seeds and berries mixes, spice mix	Spain, France, UK, Netherlands, Israel	up 3.6 mg/kg	5
	ground psyllium husks	India	2.4 mg/kg	1
	chocolate bars	France	up 1.1 mg/kg	1
	various other food products	Netherlands, Spain, Belgium, Germany, Sweden, Canada		15

Reason for Notifying	Product	Country of Origin	Notes	Number
Benzo(a)pyrene, PAH	cocoa powder	Indonesia	Benzo(a)pyrene: 20 µg/kg; PAH: 86.2 µg/kg	1
	food supplement	Switzerland	Benzo(a)pyrene: 21.1 µg/kg	1
	canned sprat	Latvia	Benzo(a)pyrene: 4.5µg/kg; PAH: 28 µg/kg	1
	ground cinnamon	Vietnam	Benzo(a)pyrene: 16.1 µg/kg; PAH: 87.6 µg/kg	1
	maca extract	China	PAH: 93.1 µg/kg	1
Dioxins	mackerel	Belgium	10.4 pg WHO TEQ/g	1
Radioactivity	mushrooms	Bosnia and Herzegovina	Cs 137: 1,566 BQ/kg	1
Acrylamide	pastries	North Macedonia, Latvia, Ukraine	up 1,173 µg/kg	3
Mineral oil	olive oil	Greece	MOSH: 100 mg/kg; MOAH: 14 mg/kg	1
3-Monochlor-1,2- propandiol (3-MCPD)	palm oil	Germany	5,138 µg/kg	1
	cocoa wafers	Turkey	2,926 µg/kg	1
	cookies	Iran	up 4,831 µg/kg	1
Glycidyl esters	vegetable ghee (vegetable fat)	Syria	1,954 µg/kg	1
	evening primrose oil	China	40,600 µg/kg	1
	vegetable oil, palm oil	Turkey, Malaysia	up 7,800 µg/kg	2
	cookies	Iran	4,356 µg/kg	1
Tropane alkaloids (Atropine, Scopolamine)	popcorn maize	Spain, Netherlands	Atropine: up 35 µg/kg; Scopolamine: up 14.6 µg/kg	2
	brown millet	Germany	Atropine: 36 µg/kg; Scopolamine: 22.4 µg/kg	1
Shellfish poisoning toxins (DSP)	cockles, mussels	Portugal, Spain	up >320 µg/kg	2
Histamine	fish / fish products	Sri Lanka, Vietnam	up 960 mg/kg	2
Chlorate	frozen crayfish in brine	Spain	1.5 mg/kg	1
Hydrogen peroxide	Milk drinks, dairy desserts	France		1
Iodine	dried seaweed	South Korea, China	up 304 mg/kg	2
Pharmacological Active Substances				
1,3- Dimethylamylamine (DMAA)	food supplement	USA		1
Cannabidiol (CBD)	CBD oils and paste, CBD products	unknown (online)		4
Tetrahydrocannabinol (THC)	CBD hemp oil	Austria	1,500 mg/kg	1
Enrofloxacin	liquid pasteurised eggs	Romania	4,236 µg/kg	1
Huperzine A	food supplement	Sweden	15.4 mg/kg	1
Beta lactams	raw milk cheese	Spain		1
Leucocrystal violet	sturgeon caviar	Iran		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Leuko-Malachitgrün	fish (<i>Barbonymus altus</i>)	Vietnam	8.5 µg/kg	1
Pancreatin	food supplement	Canada, UK, USA		3
Tetracyclines	shrimp skewers	Vietnam	168.2 µg/kg (Oxytetracycline)	1
Sildenafil	food supplement	UK	25 mg/kg	2
Unauthorised Colours				
Rhodamine B	pickled turnips	Lebanon		1
Orange II	chilli pepper powder	Cameroon		1
Miscellaneous				
Parasitic infestation with Anisakis	cod fillet	France		1
Pyrrolizidine alkaloids (PA)	cumin	Turkey, Lebanon, Netherlands	up 55,176 µg/kg	6
Unauthorised irradiation	frozen catfish	Vietnam		1
	sesame seeds	Belgium		1
GMO, not authorised	rice noodles	China		2
	food enzymes	China		1
Foodborne disease outbreak	courgettes	Netherlands, Spain		1
	salami	Italy		1
Pathogenic Germs				
Salmonella total: 100	meat / meat products (including poultry)			62
	clam meat, mussels	Vietnam, France		2
	shrimps	Netherlands		1
	fish / fish products	Gambia		1
	neem powder	India		1
	eggs / egg products	Netherlands, Ukraine, Poland		3
	herbs and spices	China, Brazil, Belgium		21
	sesame seeds, pine nuts, flaxseed	Ethiopia, Nigeria, Uganda, Turkey, Denmark		7
	betel leaves	Thailand		2
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	Spain, France, Belgium, Poland, Netherlands, Switzerland		7
	fish / fish products	UK, Denmark		2
	cheese, goat`s cheese, brie cheese	Netherlands, France, Spain		5
	Sweet chilli wraps, pizza baguette, curry cassiolettes, pesto	Netherlands, Poland, Spain, Belgium		5
	sweet maize kernels	Hungary		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Shigatoxin-producing E.coli (STEC)	beef salami, cow carcasses, Lamb carcasses, beef	Slovenia, Belgium		4
<i>Bacillus cereus</i>	varieties of pudding	Germany		1
<i>Vibrio parahaemolyticus</i>	shrimps	Vietnam		1
<i>Clostridium sulphite reducer</i>	sheep casings	Iran		1
Hepatitis A virus	dried tomatoes	Turkey		1
Norovirus	oysters	France		1
	frozen forest fruits	Italy		1
	frozen raspberries	Morocco		1

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