

Food Legislation News

No. 4 – August 2021

News from the BfR

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

Titanium dioxide (E 171):

The European Food Safety Authority (EFSA) reevaluated the food additive titanium dioxide and no longer classifies its use as a food additive as safe (<https://www.efsa.europa.eu/en/efsajournal/pub/6585>). Subsequent to the examination of the available studies, the BfR, in a first assessment, arrived at similar conclusions and they also updated their catalogue of questions and answers regarding titanium dioxide (in German: Communication No. 014/2021 dated 6 May 2021: <https://www.bfr.bund.de/cm/343/lebensmittelzusatzstoff-titandioxid-e%20-171-auf-dem-pruefstand.pdf> ; Questions and answers: https://www.bfr.bund.de/de/titandioxid_gibt_es_gesundheitliche_risiken_-240812.html#_ftn1).

PFAS in foods:

For the industrial chemicals per- and polyfluoroalkylated substances (PFAS), the EFSA determined a tolerable weekly intake (TWI) of 4.4 ng/kg body weight per week. The TWI applies to the sum of four PFAS: perfluorooctane sulphonic acid (PFOS), perfluorooctanoic acid (PFOA), perfluorononanoic acid (PFAS) and perfluorohexanesulfonic acid (PFHxS).

The BfR recommends using this health-based guide value that was deduced by the EFSA for the assessment of PFAS in foods. The results of the exposure assessments show that parts of the population partially exceed this guide value (Statement No. 020/2021 dated 28 June 2021 (in German): <https://www.bfr.bund.de/cm/343/pfas-in-lebensmitteln-bfr-bestaetigt-kritische-exposition-gegenueber-industriechemikalien.pdf>; Press Release 28/2021: https://www.bfr.bund.de/en/press_information/2021/28/pfas_industrial_chemicals_some_population_groups_sometimes_exceed_the_health_based_guidance_value-277959.html).

FAQ regarding hemp-containing foods:

The BfR updated the compiled questions and answers on the subject of hemp (in German: https://www.bfr.bund.de/de/fragen_und_antworten_zu_den_gesundheitlichen_risiken_von_hanfhaltigen_lebensmitteln-277052.html).

BfR2GO:

The 1/2021 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-1-2021.pdf>.

COVID-19 - FAQ:

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

Statements of the ALTS

The working group of experts (ALTS) that deals with the field of food hygiene and food of animal origin made decisions, amongst others, regarding the following subjects at its 86th working conference:

Defrosting advice on prepackaged fishery products:

For fishery products that were frozen subsequent to the production and defrosted prior to sale, the advice "defrosted" needs to be added to each specification of the designation when the designation is indicated several times (Resolution No. 2020/86/05).

Advertising "thermised milk" within the scope of the labelling of cheese and cheese products:

The sole indication "made of thermised milk" is not considered to be clear or easily understandable. It should be clearly conveyed to the customer as to which kind of treatment was used (No. 2020/86/13).

Whey RO permeate as a "whey product":

An extract such as whey RO permeate consisting only of the water and mineral content of the whey, is not covered by the definition "whey product" ("Molkenerzeugnis") of the milk product ordinance (No. 2020/86/31).

Uniform assessment of the illustration of vanilla blossoms:

As far as foods are concerned that were not exclusively flavoured with ground vanilla pods or natural vanilla flavours, the illustration of vanilla pods or vanilla blossoms is misleading (No. 2020/86/34).

Assessment of the labelling of cheese and products made of cheese with the specification "light":

In the labelling, the reference food product must be indicated. For the definition of a reference product, the resolution comprises a table with the results of a market analysis, whose results currently serve as an orientation for the estimation of the claim "light" for cheese (No. 2020/86/36).

Energy drink-type beverages on the basis of whey products:

For the legal classification, the composition and the production method are decisive. The individual characteristics for the decision as to whether or not the product can still be classified with the scope of the milk product ordinance or not, are presented in a tabular form in the resolution (No. 2020/86/38).

Evaluation of "Dry Aged Beef" regarding the food law requirements:

"Dry Aged Beef" is not a novel food. When it is produced using a defined mould culture, it is considered to be a meat preparation. The evaluation of sensory changes (deterioration or not) is a decision on a case-by-case basis, respectively (No. 2020/86/46).

Note:

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

At

https://www.bvl.bund.de/DE/Arbeitsbereiche/01_Lebensmittel/01_Aufgaben/02_AmtlicheLebensmittelueberwachung/13_ALTS/Im_ALTS_node.html (in German) you will find further details, a current overview of the statements, the statements of the respective current session as well as the archive.

Modifications regarding pesticides

Maximum residue levels (MRL):

The MRL of the following pesticide active agents were modified through the Regulations (EU) 2021/616, 2021/976, 2021/1098 and 2021/1110:

Ametoctradin, benalaxyl, benalaxyl-M, bixafen, cycloxydim, cyflumetofen, dichlobenil, 24-epibrassinolide, extract from the bulb of *Allium cepa* L., fenazaquin, fludioxonil, fluopicolide, fluroxypyr, mepiquat, *Metschnikowia fructicola* strain NRRL Y-27328, sodium-5-nitroguaiacolate, sodium-o-nitrophenolate, sodium-p-nitrophenolate, prohexadione, proquinazid, pyridalyl, spinetoram, tefluthrin and thiencarbazon-methyl.

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).

Other publications of the BVL

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

Food fraud:

On 21 July 2021, the BVL published results of the Operation OPSON X against food fraud. The German food control authorities examined meat products with regard to the declared animal species, and honey with regard to adulterations. In individual cases, incorrect indications regarding the animal species of the meat product and foreign sugars in honey were evidenced (in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2021/2021_PI_OPSON_X.html).

Veterinary drugs:

The BVL published the announcement regarding the approval of veterinary drugs and other official acts dated 31 May 2021 (in German: https://www.bvl.bund.de/SharedDocs/Downloads/05_Tierarzneimittel/Bekanntmachungen/2021_06_22_Bekanntmachung_BAnz.html?nn=11031612).

Sentences

"Champagne sorbet":

The Higher Regional Court of Munich decided on 1 July 2021 that ice cream that is named "champagne sorbet" must not use "champagne" in the designation, since the product did not feature a "taste that was mainly induced by champagne as an ingredient" (Higher Regional Court of Munich, Ref. 29 U 1698/14; see also ECJ 20 December 2017, C-393/16 <https://curia.europa.eu/juris/document/document.jsf?text=&docid=198044&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=388019>).

Food supplements inadmissible in gummy bear form:

By means of a temporary restraining order, the District Court Munich I banned the further marketing of highly-dosed vitamin D gummy bears, since there is a likelihood of confusion with conventional enriched fruit gums, which poses a safety risk. The sentence is not yet legally effective (Ref. 1 HK O 17003/29; in German: <https://www.lebensmittelklarheit.de/kurzmeldungen/gericht-verbietet-verkauf-von-vitamin-d-gummibaerchen>).

Inadmissible advertising for food supplements for the antiviral protection:

An advertising graphic with the headline "Full power for your immune system", whose presentation leads to the association of a germ defence (bacteria presentation, viruses including COVID-19), is not admissible (District Court of Essen, Sentence dated 20 May 2021, Ref. 43 O 55/20, not legally effective; in German: <https://www.wettbewerbszentrale.de/de/aktuelles/news/?id=3478>).

Company-owned organic label can be misleading:

When advertising includes a self-created organic emblem, giving the impression of an official organic label, then this can mislead the consumer (District Court Munich I, Sentence dated 26 March 2021, Ref. 37 O 7730/29, not legally effective)

Inadmissible organic advertising for medicinal tea:

On 12 March 2021, the District Court of Munich decided that the organic advertising for a medicinal tea represents a violation of the Medicines Act (Ref. 37 O 2885/20, not legally effective; in German: <https://www.lebensmittelklarheit.de/kurzmeldungen/urteil-hersteller-darf-arzneitee-nicht-als-bio-bewerben>).

"Bio" (organic) advertising for retreated mineral water is misleading:

When, regarding a mineral water, the delivered raw water shows an arsenic content which is so high that it needs to be retreated in order to comply with the requirements of the mineral and table water ordinance, it must not be advertised as "organic" (Higher Regional Court of Frankfurt a. M., Sentence dated 29 April 2021, Ref. 6 U 200/19, not legally effective).

QUID of lupin protein for a vegan yogurt substitute:

When a "vegan yogurt alternative" is advertised by mentioning that it contains the protein of the sweet lupin, the quantitative ingredient declaration (QUID) also needs to refer to this ingredient.

The indication of the content of "lupin preparation" (mainly consisting of water), therefore, does not comply with the requirements of the food information regulation (Lebensmittelinformationsverordnung LMIV) (District Court of Rostock, Sentence dated 31 May 2021, Ref. 6 HK O 114/20, not legally effective; in German: <https://www.vzbv.de/pressemitteilungen/lebensmittel-mengenanteil-einer-beworbenen-zutat-muss-auf-der-verpackung-steinen>).

Miscellaneous

Novel Food – insects:

With the Implementing Regulation (EU) 2021/882 dated 1 June 2021, a powder out of dried larvae of the mealworm *Tenebrio Molitor* was approved as a novel food (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R0882&qid=1628500609976>).

In addition, the European Food Safety Authority (EFSA) published an expert opinion on 2 July 2021, in which the safe use of the migratory locusts (*Locusta migratoria*) as a novel food is confirmed (<https://efsa.onlinelibrary.wiley.com/doi/full/10.2903/j.efsa.2021.6667>). Therefore, in the process of time, the approval of this insect species is also expected.

New eco implementing regulation:

On 16 July 2021, the Implementing Regulation (EU) 2021/1165 "authorising certain products and substances for use in organic production and establishing their lists" was published in the Official Journal of the European Union (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1628507313250&uri=CELEX%3A32021R1165>).

It will apply as from 1 January 2022.

Food-additive implementing regulation (LMZDV) was published:

Within the scope of the ordinance for the reform of food laws on food additives dated 2 June 2021, the ordinance for the implementation of rules of European Union law on food additives (LMZDV) was published in Article 1. In this ordinance, national additive regulations are summarised as an amendment to the European stipulations of Regulation (EC) No. 1333/2008 (in German: [https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=//*\[attr_id=%27bgbl121s1362.pdf%27\]#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl121s1362.pdf%27%5D_1628504725584](https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&start=//*[attr_id=%27bgbl121s1362.pdf%27]#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl121s1362.pdf%27%5D_1628504725584)).

Revised version of the guidelines of the German Food Code:

The following revised versions were published in the Federal Gazette:

- The revised version of the guidelines for puddings, other sweet desserts and related products (in German: <https://www.bundesanzeiger.de/pub/publication/56fxPT6Gt2b7V506zDi/content/56fxPT6Gt2b7V506zDi/BAAnz%20AT%2005.05.2021%20B2.pdf?inline>)
- The revised version of the guidelines for bread and pastries (in German: <https://www.bundesanzeiger.de/pub/publication/fEPHImCadZaqLc6b4nZ/content/fEPHImCadZaqLc6b4nZ/BAAnz%20AT%2006.05.2021%20B2.pdf?inline>), amended on 14 May 2021 (<https://www.bundesanzeiger.de/pub/publication/NMezuu04fTvtEit0VK/content/NMezuu04fTvtEit0VK/BAAnz%20AT%2014.05.2021%20B2.pdf?inline>).

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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 11 May and 29 July 2021**.

Source:

https://www.bvl.bund.de/DE/Arbeitsbereiche/01_Lebensmittel/01_Aufgaben/04_Schnellwarnsystem/01_aktuelle_rasff_meldungen/aktuelle_meldungen_node.html

Reason for Notifying	Product	Country of Origin	Notes	Number
Mycotoxins				
Aflatoxins total: 70	figs, dates, hazelnuts, almonds, pistachios, peanuts, water melon kernels (including products)			61
	curry powder, curcuma powder	Turkey, India	B1: up 10.0 µg/kg	2
	chili pepper	Ethiopia		1
	nutmeg	Indonesia	B1: 57 µg/kg; total: 62 µg/kg	2
	sesame seeds	Pakistan	B1: 11.7 µg/kg; total: 12.5 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
	chia seeds	Uganda	B1: up 7.9 µg/kg; total: 10 µg/kg	1
	organic cocoa powder	Ghana	B1: 6.52 µg/kg; total: 7.68 µg/kg	1
	organic popcorn maize	Turkey	B1: 6.2 µg/kg; total: 6.8 µg/kg	1
Ochratoxin A	curry powder	Turkey	24.0 µg/kg	1
	nutmeg	Indonesia	79 µg/kg	1
	raisins	Uzbekistan	up 19.8 µg/kg	2
	dates	Tunisia	47 µg/kg	1
	organic oats, organic rye flakes	Lithuania, Spain	up 44 µg/kg	2
	organic wheat	Poland	7.21 µg/kg	1
	basmati rice	Pakistan	4.94 µg/kg	1
	date syrup	Netherlands	3.2 µg/kg	1
Fumonisin	purple corn meal	Peru	2,787 µg/kg	1
Heavy Metals / Other Metals				
Lead	food supplement	Peru, India	up 11 mg/kg	2
	ayurvedic food supplement	India	95 mg/kg	1
	onion powder	India	up 9.1 mg/kg	2
	chopped onions	India	up 100 mg/kg	1
	chocolate	Peru	2.7 mg/kg	1
	wild boar salami	Italy	14.3 mg/kg	1
Cadmium	fish / fish products, crustaceans	Italy, Argentina, India, Spain, Ecuador	up 5.18 mg/kg	7
	avocado, frozen chopped spinach	Peru, Belgium		2
	horsemeat	France	0.45 mg/kg	1
	chocolate	Colombia	2.44 mg/kg	1
Mercury	fish / fish products	Spain, Italy, Morocco	up 2.92 mg/kg	15
	pomgranate extract	Spain	3.1 mg/kg	1
	food supplement	India	0.21 mg/kg	1
Arsenic	crustaceans	Italy	0.251 mg/kg	1
Aluminium	food supplement	UK	5,650 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chlorethanol	sesame seeds, caramelized nuts with sesame seeds	India, Greece		3
	linseed, sunflower seeds	India, Spain		2
	psyllium husks powder	Italy		1
	locust bean gum	Germany, Turkey, France, Italy, Denmark, Finland, Sweden, unknown		20
	guar gum	India, Germany		3
	stabilisers, additives, additive mixtures	Turkey (raw material India, Pakistan), France, Czech Rep., unknown		10
	spices, spice extracts, spice mixtures, condiment paste	France, India, Italy, Netherlands, Thailand,		21

Reason for Notifying	Product	Country of Origin	Notes	Number
		USA, UK, Singapore, unknown		
	amaranth	India		1
	food supplement	Germany, Spain, India, France, Slovenia		17
	various food	France, China, India		6
Formaldehyde, ethoxylated alcohol, 1,2benzothiazolinone	mangos	Brazil		26
Paraffine coating, microcrystalline wax (E 905)	cassava, ananas	Costa Rica		14
Radioactivity	mushrooms	Ukraine	Cs 137: up 2,304 BQ/kg	2
Chlorate	white cabbage	Netherlands	1.5 mg/kg	1
Benzo(a)pyrene, PAH	coconut oil	Netherlands	Benzo(a)pyrene: 2.5 µg/kg	1
	organic bay leaf	Turkey	Benzo(a)pyrene: 43.3 µg/kg; PAH: 234.9 µg/kg	1
	salted butter	Germany	Benzo(a)pyrene: 9.6 µg/kg; PAH: 80.6 µg/kg	1
	wild garlic	Bulgaria	Benzo(a)pyrene: 13.9 µg/kg; PAH: 137 µg/kg	1
	organic sea buckthorn oil	China	Benzo(a)pyrene: 5.38 µg/kg; PAH: 62.81 µg/kg	1
Mineral oil (MOSH, MOAH)	hazelnut paste	Turkey and Italy		1
	basmati rice	India	MOSH: 33 mg/kg	1
Cyclo-di-BADGE	cocoa drink	Belgium	up 0.86 mg/kg	1
3-Monochlor-1,2-propanediol (3-MCPD)	palm oil, corn oil	Germany, Brazil	up 3,900 µg/kg	3
	pastries	Saudi Arabia, Turkey	up 3,820 ng/g fat	3
	soy sauce	China	up 100 µg/kg	2
Glycidyl esters	pastries	Saudi Arabia, Turkey	up 4,452 ng/g fat	3
Tropanealkaloids (Atropin, Scopolamin)	parsley	Hungary		1
Shellfish poisoning toxins (PSP, DSP)	mussels	Turkey, Portugal, Spain, France, Norway		7
Ergot alkaloids	wholemeal spelt pasta	unknown via Germany		1
Histamine	fish / fish products	Morocco, Sri Lanka, Spain, Netherlands, India	up 904 mg/kg	5
Hydrocyanic acid	aprikot kernels	Turkey	30 mg/kg	2
Iodine	Seaweed salad	Germany	5.93 mg/kg	1
Pharmacological Active Substances				
1,3-Dimethylamylamine (DMAA)	food supplement	UK		1
Cannabidiol (CBD)	CBD oil, CBD capsules, CBD products	Netherlands, Germany, Czech Rep., Switzerland, unknown		12
	food supplement	Netherlands		3

Reason for Notifying	Product	Country of Origin	Notes	Number
	juice from hemp leaves	Bulgaria		1
	coffee	Czech Republic		1
Tetrahydrocannabinol (THC)	organic hemp tea	Austria	193 mg/kg	1
	herbal tea	Germany	7.5 mg/kg	1
	CBD paste	Slovenia	2,200 mg/kg	1
	CBD fruit gums, food supplement	USA, Austria	up 495 mg/kg	2
	hemp oil	Poland	up 1.5 mg/kg	1
Chloramphenicol	shrimps	India	0.115 µg/kg	1
Huperzin A	food supplement	UK, USA		2
Maduramicin	chicken meat	Ukraine	79.5 µg/kg	1
Meloxicam	cow carcass	Netherlands	51.9 µg/kg	1
Melatonin	food supplement	USA		2
Sibutramine, Phenolphthalein	food supplement	Hong Kong		1
Sildenafil	food supplement	UK		1
Syneprhine	food supplement	USA, unknown (online)		2
Tadalafil	food supplement	UK		1
Yohimbine	food supplement	Switzerland, UK, unknown (online)		6
Unauthorised Colours				
Rhodamine B	curry powder	Turkey		1
Orange II	chili powder	Togo		1
Sudan I	chili powder, curry spice mixture	Togo, Turkey		2
Sudan IV	palm oil	Ghana		1
Miscellaneous				
Parasitic infestation with Anisakis	fish	Spain, Morocco, Netherlands		10
Pyrrolizidine alkaloids (PA)	organic cumin, oregano	Turkey	up 10,483.39 µg/kg	3
Unauthorised irradiation	food supplement	France		1
GMO, unauthorised	instant vermicelli, instant rice product, rice flour	China, unknown		3
Foodborne disease outbreak	tuna / tuna products	Italy, Spain, Cote d'Ivoire		3
	sausage	Spain		1
Pathogenic Germs				
Salmonella total: 165	meat / meat products (including poultry)			114
	eggs	Poland		1
	fish, shrimps, mussels	Vietnam, India, Denmark		3
	black pepper	Brazil		17
	spices, spice mixtures, herbs	Russ. Fed., UK, Chile, Belgium, Turkey, Lebanon, India		7
	psyllium fiber	India		1
	sunflower seeds	Lithuania		1

Reason for Notifying	Product	Country of Origin	Notes	Number
	sesame seeds, tahini, halva, sesame paste.	Poland (raw mat.. Nigeria), Uganda, India, Nigeria, Pakistan, Syria, Turkey		16
	green beans, green pepper strips	India, China		2
	banana chips	Philippines		1
	organic shatavari powder, organic ashwagandha powder	India		2
<i>Listeria monocytogenes</i>	meat / meat products (including poultry)	UK, Netherlands, Poland, Spain, Belgium		7
	fish / fish products, seafood	Netherlands, Romania, Czech Rep., Poland, Spain, Latvia, Belgium, Slovakia		9
	cheddar cheese, raw milk cheese, raw goat milk cheese, gorgonzola, cheese	Ireland, France, Czech Rep., Italy, Austria		12
	organic quinoa	Belgium		1
	baguette wiht ham & cheese	Czech Rep.		1
	vegan curls of rice	Slovakia		1
Reason for Notifying	Product	Country of Origin	Notes	Anzahl
Shigatoxin producing E.coli (STEC)	lamb meat, cow carcass	New Zealand, Belgium		6
Campylobacter	chicken meat preparation	Poland		1
Cronobacter	rice flour	Turkey		1
<i>Bacillus cereus</i>	curry powder	India		1
<i>Vibrio parahaemolyticus</i>	shrimps	Bangladesh, India		2
Norovirus	oysters, mussels	France, Spain		2

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