

Food Legislation News

No. 5 – October 2021

Statements of the ALS

The Work Group of Food Chemistry Experts of the States and of the Federal Office of Consumer Protection and Food Safety (Arbeitskreis Lebensmittelchemischer Sachverständiger der Länder und des Bundesamtes für Verbraucherschutz und Lebensmittelsicherheit (ALS)) made a total of 19 decisions at its 116th conference and prepared, amongst others, the following statements:

LMIV – Perceiving the designation of a foodstuff as an entity:

Different font sizes, colours, backgrounds and forms may separate the associated information sets in such a manner that these are no longer perceived as an entity. If the font size difference of the word components of a designation is less than 50%, it can be assumed – taking into account the overall appearance – that the designation is still perceived as an entity by the consumer (Statement No. 2021/01).

Identification of the use of sweeteners:

The identification of sweeteners on the packaging is also required in conjunction with the designation when the designation is repeated in an isolated position (e.g. in the main visual section or as an imprint on the cover) (Statement No. 2021/02).

Allergen labelling of sulphite for bulk goods:

Since, normally, the sulphite content of dishes that are produced with sulphite-containing foods is not known at the time of production (above 10 mg/kg or 10 mg/l or not), the ALS recommends general labelling of sulphite irrespective of the amount of sulphite (Statement No. 2021/04).

Ethyl carbamate in stone fruit and stone fruit pomace brandies:

Ethyl carbamate contents that exceed the target value of 1 mg/l, which is recommended in the code of conduct for the prevention and reduction of ethyl carbamate, are avoidable according to good manufacturing practice. Such spirits must be assessed as unsuitable for human consumption (Statement No. 2021/10).

Marketing of almost identical products as foodstuffs for special medical purposes and food supplements is impossible:

A product cannot be marketed as a foodstuff for special medical purposes when, in respect of the active ingredients within the scope of a dietary management, comparable food supplements are available (Statement No. 2021/15).

Note:

Statements of the ALS are not legally binding, but they can be considered as expert opinions. At https://www.bvl.bund.de/DE/Arbeitsbereiche/01_Lebensmittel/01_Aufgaben/11_ALS_ALTS/02_ALS/ALS_node.html you will find further details, a current overview of the statements, the statements of the respective current session as well as the archive (in German).

News from the BfR

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

Who does what? – Reference book (Europe):

In their press release 35/2021 dated 11 August 2021, the BfR provides information on the publication of the 5th edition of the "EU Food Safety Almanac". "This reference book provides an up-to-date overview of the competences of the core actors in 37 European countries." It was published in English (<https://www.bfr.bund.de/cm/350/eu-almanach-lebensmittelsicherheit-englisch.pdf>).

Hemp-containing foods – FAQ:

The BfR reupdated their catalogue of questions and answers regarding the health risks of hemp-containing foods on 16 July 2021 (https://www.bfr.bund.de/en/frequently_asked_questions_about_the_health_risks_of_foods_containing_hemp-279961.html).

Antibiotic colistin – FAQ:

Questions and answers regarding the antibiotic colistin, which is predominantly applied in veterinary medicine, and regarding the communicable colistin resistance of bacteria, were compiled and published on 3 August 2021 (in German: https://www.bfr.bund.de/de/fragen_und_antworten_zum_antibiotikum_colistin_und_zur_uebertragbaren_colistin_resistenz_von_bakterien-196989.html).

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).

Modifications regarding pesticides

Maximum residue levels (MRL):

With regulation (EU) 2021/1247, the MRL of mandestrobin in grapes and strawberries were increased to 5 mg/kg (grapes) or 3 mg/kg (strawberries) (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1247&from=DE>).

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).

Sentences

Misleading protein indication on a quark bar:

When, on the obverse side of a packaging, "protein 8.8 g *" is indicated but no explanation is given in respect of the meaning of the asterisk, this indication is misleading (District Court of Bamberg, Sentence as from 4 May 2021, Ref. 13 O 370/20; in German: <https://www.juris.de/jportal/portal/t/1tkj/page/homerl.psml?nid=jnachr-JUNA210702627&cmsuri=%2Fjuris%2Fde%2Fnachrichten%2Fzeigenachricht.jsp>).

Designation of products made of combined meat pieces:

The designation "delicatessen roast turkey – made out of meat pieces" corresponds to the stipulations of Regulation (EU) No. 1169/2011 (LMIV) and, therefore, the use of the term "reformed meat" - which is customary in Germany – cannot be postulated (Higher Administrative Court Munich, Sentence dated 20 May 2021, Ref. 20 ZB 19.131; in German: <https://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2021-N-12838?hl=true>).

"Herbal tea with Schuessler salt" is permissible:

The Higher Regional Court of Hamburg decided that the designation "herbal tea with Schuessler salt" is permissible for a product that is explicitly advertised as a "food tea" (Higher Regional Court of Hamburg, Sentence dated 22 July 2021, Ref. 3 U 195/18; in German: <https://www.wettbewerbszentrale.de/de/home/news/?id=3495>).

Gold tone of the "Lindt Gold Bunny" protected:

On 29 July 2021, the Federal High Court of Justice decided that the gold tone of the "Lindt Gold Bunny" is protected by the trademark (Federal High Court of Justice, Ref. I ZR 139/20; in German: https://www.bundesgerichtshof.de/SharedDocs/Pressemitteilungen/DE/2021/2021147.html?jsessionid=0EF0107BE652FE92D915B5852079F0B8.1_cid286).

Foil covering of the cork required for champagne bottles:

Sparkling-wine bottles must have a foil covering around the cork throughout the EU. This foil protects the consumer against confusion/fraud, offers protection against manipulation and can protect against moisture and the formation of mould as regards natural corks (Administrative Court of Trier, Sentence as from 7 July 2021, Ref. 8 K 424/21.TR, not legally effective; in German: <https://vgtr.justiz.rlp.de/de/startseite/detail/news/News/detail/pressemitteilung-nr-242021/>).

Miscellaneous

4th Food and Feed Code amending law was published:

On 9 August 2021, the 4th Law amending the Food and Feed Code and other provisions was published in the Federal Law Gazette. Besides different modifications, the section of the provisions regarding backtracking is of particular interest. It is stipulated that, according to the new Paragraph 44 Section 3 of the Food and Feed Code, the required information must be available in such a manner in the future, "that they can be transmitted electronically to the relevant authority no later than 24 hours after the request." To avoid undue hardship, the relevant authority may allow exceptions in the individual case. This regulation will come into force on 1 September 2022. Another modification will become legally effective on 31 December 2022: the aforementioned information must then be transmitted upon request "in a structured, common and machine-readable format" (in German: https://media.offenegesetze.de/bgbl1/2021/bgbl1_2021_50.pdf#page=2).

Maximum contents lead, cadmium:

With the Regulations (EU) 2021/1317 and 2021/1323, the maximum contents of lead and cadmium in certain foods were revised:

Links:

- Lead: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1317&from=DE>
- Cadmium: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1323&from=DE>

Maximum contents ergot alkaloids/ergot:

With Regulation (EU) 2021/1399 dated 24 August 2021, maximum levels for ergot sclerotia and ergot alkaloids were modified within the scope of the EU Contaminants Regulation (1881/2006) (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1399&from=DE>).

Maximum contents tropane alkaloids:

With Regulation (EU) 2021/1408 dated 27 August 2021, further maximum levels for tropane alkaloids were stipulated. The regulation has come into force on 19 September 2021, but there is a transitional regulation (except for processed cereal-based foods and baby foods), so that the values only apply from 1 September 2022 to the products concerned (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1408&from=DE>).

Spirits – Amendment of the EU regulation:

On 27 May 2021, the EU Regulation for Spirit Drinks (EU) 2019/787) was modified by two delegated regulations:

- Delegated Regulation (EU) 2021/1334: modification with regard to the allusions to legal names of spirit drinks or geographical indications for spirit drinks in the description, presentation and labelling of other spirit drinks (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1334&from=DE>).
- Delegated Regulation (EU) 2021/1335: modification with regard to the labelling of spirit drinks resulting from the combination of a spirit drink with one or more foodstuffs (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1335&qid=1632135164818&from=DE>).

Announcement of the BVL regarding veterinary drugs:

The Federal Office of Consumer Protection and Food Safety (BVL) published the announcement regarding the approval of veterinary drugs and other official acts dated 29 July 2021 (in German: https://www.bvl.bund.de/SharedDocs/Fachmeldungen/05_tierarzneimittel/2021/2021_08_26_Fa_Bekanntmachung_Zulassung_TA.html).

Additives – Polyols:

With Regulation (EU) 2021/1175, the polyols, which were approved for confectionery without added sugar until now, were also approved for energy-reduced confectionery (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1175&qid=1632135887640&from=DE>).

RASFF – Annual report 2020:

The European Commission published its annual report on the rapid alerts in the RASFF (Rapid Alert System for Food and Feed) for 2020 in English (https://ec.europa.eu/food/system/files/2021-08/rasff_pub_annual-report_2020.pdf).

Last update: 30 August 2021

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 30 July and 13 September 2021**.

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
Mykotoxins				
Aflatoxins total: 37	figs, hazelnuts, almonds, pistachios, peanuts, brazil nuts (including products)			33
	brown rice, rice	Pakistan	B1: up 44 µg/kg; total: 49 µg/kg	2
	nutmeg	Indonesia	B1: up 170 µg/kg; total: up 220 µg/kg	2
Ochratoxin A	organic raisins	Uzbekistan	up 21.9 µg/kg	1
	chillies seasoning	Germany	33.0 µg/kg	1
	dried figs	Turkey	25 µg/kg	1
	nutmeg	Indonesia	37 µg/kg	1
	quinoa	France	6.9 µg/kg	1
Heavy Metals / Other Metals				
Cadmium	squid, octopus	Spain (partly raw mat. India), India	up 3.5 mg/kg	4
	mussels	France	3.0 mg/kg	1
	snails	Italy	1.7 mg/kg	1
	sword fish	Sri Lanka	0.287 mg/kg	1
	celery root	Poland	0.27 mg/kg	1
Mercury	fish / fish products	Sri Lanka, Indonesia, Spain, Tunisia	up 2.45 mg/kg	12
	food supplement	UK	1.0 mg/kg	1
Arsenic	organic barleygrass juice powder	USA	2.2 mg/kg	1
	crustaceans	Norway	22.75 mg/kg	1
	rice	Spain	0.30 mg/kg	1
Aluminium	food supplement	UK	9,877 mg/kg	1
Boron	mineral water	Turkey	4.33 mg/l	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chlorethanol	capsules for medicines and food supplements	China		1
	calcium carbonate	Germany, India		3
	food supplement	USA, Finland, Spain, Germany, UK, Netherlands, France, Belgium, Austria, unknown		11
	xanthan, stabiliser, locust bean gum, guar gum, guar gum and	China, Turkey, France, Italy, Belgium, Poland, Spain, Malaysia,		44

Reason for Notifying	Product	Country of Origin	Notes	Number
	locust bean gum mixture, thickening agent	Switzerland, Slovenia, India, Germany		
	ginger extract, ginger powder, hawthorn and curcuma infusion, organic curcuma, curcuma and black pepper, spices, mustard seed extract, fenugreek extract	India, UK, France, Greece, Germany		16
	bamboo extract, Moringa leaves powder	Spain, India, Germany		5
	lemons, blood orange flavour	Turkey, Netherlands		2
	bean extract, topping, bread and pizza baking mix, milk bar	India, France, Italy, Slovenia		4
	ice cream	Poland, France, Slovenia		4
	dried noodles, instant noodles, noodle ready meal	Vietnam, China, Rep. Korea, Ukraine, Netherlands		9
	sandwich, tuna paste, vegetarian sausage, sausage	France, Austria, Spain		4
Perchlorate	organic marjoram	Egypt	21 mg/kg	1
Paraffine coating, mikrocristaline wax (E 905)	manioc	Costa Rica		11
Benzo(a)pyrene, PAH	spice mixture	China	Benzo(a)pyrene: 23.8 µg/kg; PAH: 109.1 µg/kg	1
	food supplement	Germany (raw mat. India)	Benzo(a)pyrene: 17 µg/kg; PAH: 137 µg/kg	1
	plant extract	Germany	PAH: 115 µg/kg	1
	dill tips	Germany	PAH: 106 µg/kg	1
Acrylamide	biscuits	Turkey	741.4 µg/kg	1
3-Monochlor-1,2-propanediol (3-MCPD)	butter cookies	Poland	3,292 µg/kg	1
	palm oil	South Africa, Switzerland, Germany, Malaysia	up 5,000 µg/kg	4
Glycidyl esters	palm oil	Malaysia	up 1,894 µg/kg	1
Aloin	aloe vera drinking gel, organic aloe vera juice	Greece, Italy		2
Coumarin	gluten-free spiced biscuits (Spekulatius)	unknown	26.72 mg/kg	1
Tropane alkaloids (Atropin, Scopolamin)	buckwheat	Austria	Atropin: 240 µg/kg; Scopolamin: 87 µg/kg	1
Shellfish poisoning toxins (DSP)	Mussels	Spain, France		2
Histamine	fish / fish products	France, Netherlands, UK	up 1,700 mg/kg	4
Pharmacological Active Substances				
3,3'Diindolylmethane (DIM)	food supplement	UK, Netherlands		4
2-Dimethyl-aminoethanol (DMEA)	food supplement	Germany		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Cannabidiol (CBD)	CBD products, food supplement, hemp tea, organic hemp oil, hemp oil	unknown (online), UK, Sweden, Slovenia, Germany, Poland		6
Tetrahydrocannabinol (THC)	CBD capsules	USA	1,304 mg/kg	1
	CBD oil, hemp oil	unknown (online), Germany, Poland	up 886 mg/kg	3
	cannabis tea, hemp tea	Czech Rep., Austria, Slovenia	0.9 mg/l	4
	hemp cookies, protein bar	Czech Rep.		2
Chloramphenicol	crayfish	China		1
Ciprofloxacin	food supplement	Japan		1
Nitrofurantol metabolite	shrimps	India	3.04 µg/kg (AOZ)	1
	frog legs	Vietnam	17 µg/kg (AOZ)	1
Tetracyclines	pig carcasses	Belgium	Doxycyclin: > 250 µg/kg	1
	Atlantic salmon products	Chile	Oxytetracyclin: 134.8 µg/kg	1
Sildenafil	food supplement	China, Japan		2
Tadalafil	food supplement	China, Netherlands		2
Vardenafil	food supplement	China		1
Yohimbine	food supplement	Czech Rep.		1
Unauthorised Colours				
Orange II	chili powder	Ghana		1
Sudan I	mixture of spices, herbs and additives	Russian Federation		1
Sudan IV	palm oil	Ghana		3
Miscellaneous				
Parasitic infestation with Anisakis	fish	Morocco, Uruguay		3
GMO, unauthorised	rice flour	Belgium		1
	food enzyme	China		1
Foodborne disease outbreak	pork products	UK		1
	edible cockle	France		1
	tuna	Sri Lanka		1
	eggs	Spain		1
	berry mix	Germany		1
Pathogenic Germs				
Salmonella total: 57	meat / meat products (including poultry)	Poland, Ukraine, Netherlands, Hungary, France, Belgium		33
	mussels	Vietnam		1
	eggs	Poland, Netherlands		3
	cheese, milk powder	France, Germany		2
	Bruschetta topping	Belgium		1
	black pepper	Brazil		10
	paprika powder, coriander, mint, tomato flakes	China, India, Kenya		4
	sesame seeds, sesame products	India, Syria		2
	Bacopa Monnieri (Brahmi) powder	India		1

Reason for Notifying	Product	Country of Origin	Notes	Number
<i>Listeria monocytogenes</i>	meat / meat products	Ireland, Poland		3
	fish / fish products	Poland, Lithuania, France, Turkey, Romania		5
	cheese, raw milk cheese	Italy, France		6
	topping	Croatia		1
	cheese substitute	France		1
	deep frozen bakery product	Ukraine		1
Shigatoxin producing E.coli (STEC)	lamb meat, beef, veal	New Zealand, Uruguay, Belgium		4
	raw milk cheese	France		2
Campylobacter	minced chicken	Poland		1
<i>Bacillus cereus</i>	gnocchi, ground ginger	Italy, Nigeria		2

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