

Food Legislation News

No. 2 – April 2022

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 regarding seven subjects at its 88th working conference:

Shiga toxin-producing *E. coli* (STEC) in cereal flours, ready mixes and fresh doughs:

To assess whether a food with detectable STEC is harmful to health or not, the usual conditions of use and the information that was communicated to the consumer all need to be taken into account.

As regards cereal flours and products that are manufactured thereof, a warning is required such as "cereal flours, ready mixes and dough are not intended for being eaten raw and must always be cooked thoroughly before consumption".

Without such warning, the product must be classified as harmful to health (No. 2021/88/02).

The indication "I feel good" in a direct connection with the "lactose-free" declaration:

The indication "I feel good" in direct connection with a "lactose-free" declaration represents a reference to health-related well-being, to which a special health-related indication in accordance with Article 13(3) of Regulation (EC) 1924/2006 should be added. However, as there is no special health-related specification for this indication here that could be added, the statement is to be judged as inadmissible (No. 2021/88/04).

Fruit, vegetables, mushrooms – "in varying proportions":

In the list of ingredients, fruit, vegetable or mushroom mixes can be labelled with a class name and the reference "in varying proportions", followed by the listing of the individual varieties. The precondition for this is that no ingredient of the mix clearly dominates with its percentage by weight. In order to decide as to whether or not an ingredient clearly dominates, the ALTS assumes that, for example in a 4-component mix, each ingredient should amount to 25% by weight (= specified value). Deviations of less than 10% (absolute) from this specified value will be tolerated. In the event that the actual percentage by weight of an ingredient deviates by more than 10% (absolute) from this specified value, a verification by the manufacturer is recommended (No. 2021/88/05).

Nutrition declaration in addition as a percentage of the reference quantity:

If, in addition, unsolicited information is provided regarding the calorific value and the nutrient amounts as a percentage of the reference quantities, this must be done for all the indications in the nutrition declaration (No. 2021/88/06).

Designation of (plant) extracts in the list of ingredients:

Extracts, which are not legally defined or for which no customary designation exists, are indicated with a describing designation. If several purposes come into consideration for an extract and the consumer is unable to recognise the actual kind of extract or distinguish it from other extracts, the designation of the extract must be supplemented correspondingly by an explanation of the intended purpose. According to the ALTS, this is normally the case when using extracts as colouring food ingredients (No. 2021/88/10).

Labelling of venison:

As regards venison, the corresponding indication of the animal species is customary (e.g. Sika deer, fallow deer, red deer). In the list of ingredients, the indication "venison" will suffice for flesh from red deer as an ingredient. Otherwise, the indication of the animal species will be required (No. 2021/88/14).

Assessment of the information for allergy sufferers:

The ALTS compiled various possibilities of information for allergy sufferers and the evaluation of the latter in a table (No. 2021/88/15).

Note:

Statements of the ALTS 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/13_ALTS/lm_ALTS_basepage.html you can find further details and, in German, a current overview of the statements, the statements of the respective current session as well as the archive.

News from the BfR

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

Pop-it fidget toys should not be used for the preparation of foods:

So-called "pop-it fidget toys" (colourful silicone moulds with soft bubbles that can be pressed down) are not only used for playing but also in the kitchen, e.g. for baking. These are toys that come into contact with the skin. If the manufacturer did not explicitly identify the toys as suitable for food contact, harmful substances may migrate from the silicone to the food during its preparation (Communication No. 008/2022 dated 1 March 2022, <https://www.bfr.bund.de/cm/349/bfr-advises-against-preparing-food-in-pop-it-fidget-toys.pdf>).

Note:

Already in 2019, the Federal Office of Consumer Protection and Food Safety (BVL) advised in a press release not to use inappropriate materials for the creative preparation of foods. Flower pots, for example, are not suitable for baking bread (Press release dated 15 May 2019, in German: https://www.bvl.bund.de/SharedDocs/Pressemitteilungen/01_lebensmittel/2019/2019_05_15_PI_LM_Kontaktmaterialien.html).

Modifications regarding pesticides

Maximum residue levels (MRL):

With the regulations (EU) 2022/78, 2022/85 and 2022/93, the MRL of the following pesticide active agents were modified:

Acrinathrin, dazomet, flonicamid, fluvalinate, folpet, fosetyl, hexythiazox, isofetamid, metam, methylisothiocyanate, "Pepino Mosaic Virus, EU strain, mild isolate Abp1", "Pepino Mosaic Virus, CH2 strain, mild isolate Abp2", spinetoram and spirotetramat.

Pesticides – information from the BVL:

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

Modifications regarding veterinary drugs

The Federal Office of Consumer Protection and Food Safety (BVL) published the announcements regarding the approval of veterinary drugs and other official acts from 14 January and 8 February 2022 (in German:

https://www.bvl.bund.de/SharedDocs/Downloads/05_Tierarzneimittel/Bekanntmachungen/2022_02_11_Bekanntmachung_BAnz.pdf?__blob=publicationFile&v=2 and <https://www.bundesanzeiger.de/pub/publication/toh5TEF76bLnR9Fuoro/content/toh5TEF76bLnR9Fuoro/BAnz%20AT%2025.02.2022%20B3.pdf?inline>).

Sentences

ECJ – designations of ingredients should not be freely translated:

With its sentence dated 13 January 2022, the European Court of Justice confirmed that, for the translations of lists of ingredients, those terms must be used as a designation that are defined in the respective Member State (ECJ, C-881/19, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=255166&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=6598275>).

The designation "Glen" for whiskey from a Swabian distillery is not admissible:

With its sentence dated 20 January 2022, the Hamburg Higher Regional Court concluded a legal dispute that lasted for years regarding the registered indication "Scotch whisky" and the indicative designation "Glen". It is considered proved that German consumers associate products with the designation "Glen" with Scotch whisky. Therefore, this designation must not be used for the whiskey of a German distillery. (Higher Regional Court of Hamburg, Ref. 5 U 43/19; see also ECJ dated 7 June 2018, C-44/17).

Vegetable milk substitutes must not be called "...milck":

In the view of the Stuttgart District Court, designations such as "vegetable milck" (Pflanzenmilck), "milck products" (Milckprodukte) and "hemp milck" are too much rooted in the registered designation "milk" (Milch) and must, therefore, not be used (Stuttgart District Court, Sentence as of 10 February 2022, Ref. 11 O 501/21, not yet in force).

Miscellaneous

Titanium dioxide (E 171) – interdiction:

With Regulation (EU) 2022/63 dated 14 January 2022, titanium dioxide as a food additive was prohibited. The regulation came into force on 2 February 2022 and the established transitional period will end on 7 August 2022 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0063&from=EN>).

The additives sodium and potassium carbonates:

On 2 February 2022, Regulation (EU) 2022/141 dated 21 January 2022, according to which the use of sodium carbonates (E 500) and potassium carbonates (E 501) is allowed for non-processed cephalopods was published. However, the carbonates must not be applied in a combination with phosphates (E 338-452). The regulation came into force on 22 February (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0141&qid=1647516664561&from=EN>).

EFSA – expert opinion on sugar:

On 28 February, the European Food Safety Authority published the expert opinion "Tolerable upper intake level for dietary sugars", according to which the intake of added and free sugars should be as low as possible (<https://www.efsa.europa.eu/en/news/added-and-free-sugars-should-be-low-possible>).

Novel Food – extension of the Union list:

Implementing Regulation (EU) 2017/2470 of the Commission for the creation of the Union List of novel food was modified by further implementing regulations, and the following permissions were thus granted:

- dried pulps of the coffee cherry of the types *Coffea arabica* L. and/or *Coffea canephora* Pierre ex A. Froehner and the infusion thereof as a traditional food from a third country (Implementing Regulation (EU) 2022/47 dated 13 January 2022)
- pasteurised enterobacteria *Akkermansia muciniphila* (Implementing Regulation (EU) 2022/168 dated 8 February 2022)
- frozen, dried and powdery mealworms (larva from *Tenebrio molitor*) (Implementing Regulation (EU) 2022/169 dated 8 February 2022)
- cetylated fatty acids (Implementing Regulation (EU) 2022/187 dated 10 February 2022)
- *Acheta domesticus* (house cricket), frozen, dried and in the form of powder (Implementing Regulation (EU) 2022/188 dated 10 February 2022).

Guidelines regarding the EU Spirit Drinks Regulation:

On 18 February 2022, guidelines for the implementation of certain labelling provisions of Regulation (EU) 2019/787 were published ([https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022XC0218\(01\)&qid=1647520983653&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022XC0218(01)&qid=1647520983653&from=EN)).

Last update: 2 March 2022

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 22 January and 11 March 2022**.

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: 70	figs, hazelnuts, pistachios, peanuts, brasil nuts, melon kernels (including products)			49
	chili powder, curry powder	India, Turkey	total: up 21.0 µg/kg	2
	nutmeg	Indonesia	B1: up 81 µg/kg; total: up 91 µg/kg	1
	basmati rice, brown basmati rice, rice	India, Pakistan	B1: up 14 µg/kg; total: up 15 µg/kg	15
	millet flour, wheat	Senegal, Moldova	B1: up 8.6 µg/kg; total: up 8.6 µg/kg	2
	organic black mulberries	Turkey	B1: 8.3 µg/kg; total: 9.35 µg/kg	1
Ochratoxin A	dates	Tunisia	130 µg/kg	1
	date syrup	Sweden	4.8 µg/kg	1
	dried figs	Turkey	up 42 µg/kg	3
	dried nutmeg fruits	Indonesia	61.7 µg/kg	1
	nutmeg	Indonesia	33 µg/kg	1
	dried organic white mulberries	Turkey	42 µg/kg	1
	basmati rice	Pakistan, India	up 12 µg/kg	2
Alternaria toxins	tomatoe paste, tomatoe puree	Turkey	Alternariol: up 41 µg/kg; Tenuazonic acid: up 2,180 µg/kg	2
Fumonisin	cornmeal	Peru	B1+B2: 2,936 µg/kg	1
Heavy Metals / Other Metals				
Lead	rye flour	Netherlands	up 0.41 mg/kg	1
	talcum powder (E 553b)	Netherlands	up 11.4 mg/kg	1
Cadmium	cuttlefish, mussels	Vietnam, Chile	up 2.1 mg/kg	2
	avocado, eddo	Colombia, Dominican Republic, Costa Rica	up 0.17 mg/kg	3
	peppers	Peru	up 0.11 mg/kg	1
	organic mung beans	Uzbekistan	0.11 mg/kg	2
	truffles	China	0.74 mg/kg	1
	lettuce, stuffed grape leaves	Bosnia and Herzegovina, Jordan		2

Reason for Notifying	Product	Country of Origin	Notes	Number
Mercury	fish / fish products	Indonesia, Spain, Portugal, France, Morocco, Tunisia	up 2.04 mg/kg	8
Aluminium	freekeh	Syria	114 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chloroethanol	various food and food additives			66
Chlorate	beef tongues	Brazil	1.8 mg/kg	1
	Pangasius fillets	Vietnam	7.4 mg/kg	1
	ground cinnamon	Vietnam	up 36.95 mg/kg	1
	romain lettuce	Spain	1.9 mg/kg	1
Benzo(a)pyrene, PAH	freekeh	Syria, Turkey	Benzo(a)pyrene: up 97 µg/kg; PAH: up 342 µg/kg	2
	sausage	Poland, Portugal	Benzo(a)pyrene: up 16.4 µg/kg; PAH: up 76.5 µg/kg	2
Cyclo-di-BADGE (CbB)	canned coconut cream	Thailand	1,029 µg/kg	1
Bisphenol A (BPA)	canned coconut cream	Thailand	262 µg/kg	1
	canned sprat paste	Latvia	69 µg/kg	1
Mineral oil	stock cubes	Hungary		1
Glycidyl esters	organic coconut oil	Netherlands	2,200 µg/kg	1
Pyrrolizidine alkaloids (PA)	cumin	Turkey	up 50,000 µg/kg	2
Histamine	fish / fish products	Netherlands, Maldives	up 404 mg/kg	2
Hydrocyanic acid	apricot kernels	Greece, Uzbekistan, Pakistan, Tadzhikistan	up 2,723.3 mg/kg	6
	organic almonds	Spain	up 155.8 mg/kg	1
Iodine	dried seaweed	China	up 697.45 mg/kg	1
Pharmacological Active Substances				
Aloin	aloe juice	Italy	7.1 mg/kg	2
Benzalkonium chloride	nile perch	Uganda	0.1465 mg/kg	1
3,4-Methylenedioxy-methamphetamine (MDMA)	champagne	France		1
1,3-Dimethylamylamine (DMAA), 2-Dimethylaminoethanol (DMAE), 2-Aminoisoheptane (DMHA)	food supplement	USA, unknown		8
Higenamin	food supplement	USA, unknown		2
Hupercine A	food supplement	USA, unknown		2
Tetrahydrocannabinol (THC)	CBD oil	Germany, Ireland, Poland	up 540 mg/kg	3
	hemp oil	Netherlands	1,186 mg/kg	1
	food supplement	Denmark, UK	up 968 mg/kg	2
	tea mixture	Germany	up 17.6 mg/kg	1
Nitrofuran metabolites	Pangasius fillets	Thailand	2.7 µg/kg (AOZ)	1
Tetracyclines	honey	Turkey	(Doxycycline)	1
	chicken meat	Poland	Doxycycline: 125.03 µg/kg	1
Synephrine	food supplement	USA, unknown		2

Reason for Notifying	Product	Country of Origin	Notes	Number
Sildenafil	food supplement	China, Portugal, unknown		3
Tadalafil	food supplement	unknown		1
Nortadalafil	food supplement	Estonia		1
Yohimbine	food supplement	USA, UK, unknown		13
Unauthorised Colours				
Sudan IV	spice preparation	Turkey		1
Sudan III, IV	palm oil	Ghana		1
Miscellaneous				
Parasitic infestation with Anisakis	fish, hake roe	New Zealand, Iceland, Morocco		3
GMO, not authorised	cracker mixture	China		1
Foodborne disease outbreak	oysters	France		1
Pathogenic Germs				
Salmonella total: 47	meat / meat products (including poultry)			28
	raw milk goat's cheese	France		1
	eggs	Poland		1
	black pepper, paprika powder, ground ginger	Brazil, Spain China, Poland (raw material Latvia)		7
	sesame seeds	India, Egypt, Nigeria		3
	ravioli	France, Belgium		2
	papaya, coconut meat	India, Vietnam		2
	pistachio cream, oat bar, salad pasta pesto mozzarella	Netherlands, UK		3
<i>Campylobacter spp.</i>	chicken meat	Poland		1
<i>Listeria monocytogenes</i>	fish / fish products, shrimps	France, Germany, Ireland, Poland, Netherlands, Spain, Vietnam		9
	raw milk cheese, raw milk goat's cheese, sheep's milk cheese	France, Spain		4
	spinach almonds and chickpeas dip, sweet potato hummus	Netherlands, Sweden		2
Shigatoxin producing E.coli (STEC)	lamb, beef tartar, beef	New Zealand, Poland, Brazil		3
	soft cheese, raw milk cheese	France		2
<i>Vibrio vulnificus</i>	shrimps	Ecuador		1
Norovirus	oysters, mussels	Netherlands, France		6

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