

Food Legislation News

No. 3 – June 2023

Statements of the ALS

The Working Group of Food Chemistry Experts from the Federal States and 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 14 decisions at its 119th conference and prepared, amongst others, the following statements:

Allergen labelling:

To support the investigations, which are due to positive findings of undeclared allergens, the leaflet "Verification of allergen labelling in the production plant" ("Überprüfung der Allergenkennzeichnung im Herstellungsbetrieb") is recommended. It was published as an appendix (Statement No. 2022/15, replaces Statement No. 2020/05).

Fermented/hydrolysed cereal products for the production of beverages such as "oat drinks" or "rice drinks" – labelling:

For the production of cereal-based beverages, the fermentation of the cereal grain is required to achieve solubility in aqueous media. In the process, the starch contained is enzymatically degraded (starch saccharification) and, depending on the process control, different products with different nutritional value profiles (sugar content) are produced. The ALS has worked out for different process controls which designation of the cereal ingredient needs to be indicated at the time of its use in the production of the (final) food (whether or not "oats", for example, is sufficient or whether the addition "fermented", "saccharified" or "hydrolysed" needs to be indicated as well).

For such products, the ALS considers the claim "naturally contains sugar" to be inappropriate and therefore likely to mislead consumers. The nutrition claim "no added sugar" is only considered permissible if directly accompanied by an explanatory note such as "contains sugar from oat fermentation".

(Statement No. 2022/16)

Marketing of children's tea:

Requirements on the composition and labelling of herbal and fruit teas for infants and young children are regulated in the German Fruit Juice, Refreshment Drinks and Tea Ordinance (FrSaftErfrischGetrTeeV). Tea-like products or products made from these for children (so-called "children's teas") whose overall presentation gives the impression that they are also intended for infants and young children must be assessed according to the FrSaftErfrischGetrTeeV. This can only be avoided if it is made clear by a corresponding clarification or by an age statement that the target group of infants and young children is to be excluded (Statement No. 2022/26).

Designation jelly/jello (Wackelpudding/Götterspeise) in contrast to pudding:

For dessert-like products made of water, sugar, flavouring or fruit juice, gelling and acidifying agents – without the addition of milk – the Guidelines for puddings, other sweet desserts and related products provide for the designations "Jelly" or "Jello". The designation "pudding" is not a customary designation for such products (Statement No. 2022/17).

Ingredients of hot wine punch (Glühwein):

Flavoured wine-containing beverages called "hot wine punch" are mainly to be spiced with cinnamon and/or cloves. According to the opinion of the ALS, other spices as well as orange and lemon peel may be used in addition to cinnamon and cloves. However, the flavour of cinnamon and/or cloves should be sensorially recognisable (Statement No. 2022/18).

Single Malt Scotch Whisky tasting flasks:

According to the product specification, Single Malt Scotch Whisky may not be bottled or transferred outside of Scotland. If Single Malt Scotch Whisky is transferred from original bottles into tasting flasks outside of Scotland, they may not be marketed under the name "Single Malt Scotch Whisky" (Statement No. 2022/20).

Note:

Statements of the ALS 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/12_ALS/Im_ALS_node.html you can find further details in German and a current overview of the statements, the statements of the respective current session as well as the archive.

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 two subjects at its 90th working conference:

Voluntary information about the absence of gluten or lactose, for example:

Information on the absence of gluten or lactose in food is not considered by the ALS to be a nutrition-related indication or a nutrition declaration. They are considered solely as useful information for consumers who have an intolerance to these substances. However, as voluntary claims, they must not be misleading. If all comparable foods also have these properties, a note such as "naturally occurring" can avoid misleading consumers. For gluten, the Implementing Regulation (EU) No. 828/2014 regulates the wording and conditions for corresponding indications (Statement No. 2022/90/02).

Labelling of foods for online tastings:

Tasting flasks/tasting packages with food for online tastings (marketing by means of distance selling) are to be assessed as pre-packaged food. They are therefore subject to the information requirements according to Art. 14 (1) of the Food Labelling Regulation (LMIV - Regulation (EU) No. 1169/2011) (Statement No. 2022/90/03).

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/Im_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.

Publications of EFSA and BfR

The European Food Safety Authority (EFSA) and the German Federal Institute for Risk Assessment (BfR) published the following, amongst others:

Nitrosamines in food:

The EFSA published an opinion on the risk assessment of nitrosamines. According to this, exposure to nitrosamines in food gives rise to health concerns for all age groups of the EU population. The BfR shares EFSA's views and explained this in its updated Communication No. 016/2023 of 11 April 2023. Overall, there are still data gaps that should be filled. Further details can be found at <https://www.efsa.europa.eu/en/news/nitrosamines-food-raise-health-concern> and <https://www.bfr.bund.de/cm/349/nitrosamines-in-food-efsa-publishes-new-opinion-on-health-risks.pdf>.

Bisphenol A (BPA):

In its re-evaluation of bisphenol A, the EFSA identified potentially adverse effects on immune health. The Tolerable Daily Intake (TDI) value was reduced to 0.2 nanograms per kilogram of body weight (bw) per day (previously 4 mg/kg bw per day).

The BfR has a different opinion on this and criticises, among other things, that no current exposure assessment for the European population is available. Since the BfR assumes that the current exposure estimate might be too high, it is recommended to collect additional data in order to be able to carry out a reliable risk assessment. Furthermore, the BfR proposes a health-based guide value of 0.2 mg BPA/kg bw per day for the risk assessment.

The BfR also updated its catalogue of questions and answers on BPA.

Links:

EFSA:

- <https://www.efsa.europa.eu/en/news/bisphenol-food-health-risk>

BfR:

- https://www.bfr.bund.de/en/health_assessment_of_bisphenol_a_in_foods-54506.html
- <https://www.bfr.bund.de/cm/349/bisphenol-a-bfr-proposes-health-based-guidance-value-current-exposure-data-are-needed-for-a-full-risk-assessment.pdf>
- https://www.bfr.bund.de/en/bisphenol_a_in_everyday_products_answers_to_frequently_asked_questions-60837.html

Glutamic acid and glutamates (E 620-E 625):

In its Communication No. 013/2023, the BfR addresses the state of knowledge on the health assessment of glutamic acid and glutamates. In its 2017 assessment, the EFSA derived an Acceptable Daily Intake (ADI) of 30 mg/kg bw per day. If this intake is exceeded over a longer period of time, adverse effects may occur. The BfR therefore continues to advise against using glutamate as a substitute for table salt (<https://www.bfr.bund.de/cm/349/glutamic-acid-and-glutamates-assessment-of-health-effects-through-their-use-as-food-additives.pdf>).

Wild garlic – danger of confusion:

In their Press Release 07/2023 dated 4 April 2023, the BfR again points to the fact that, when collecting wild garlic, it is often confused with the poisonous lily of the valley or autumn crocus. As a result, cases of poisoning occur during every season some of which have been fatal. (https://www.bfr.bund.de/en/press_information/2023/07/wild_garlic_confusion_often_leads_to_poisoning-310525.html, see also [Food Legislation News 3/2022](#), page 2).

Modifications regarding pesticides

Maximum Residue Levels (MRL):

With the Regulations (EU) 2023/466, 2023/679 and 2023/710, the MRL of the following pesticide active agents were modified:

Bromopropylate, chloridazon, fenpropimorph, imazaquin, isoxaben, novaluron, pyridaben, pyridate, pyriproxyfen, tetraconazole, tralkoxydim and triclopyr.

EU Monitoring:

A new regulation on a multi-annual Union pesticide residue monitoring programme for the years 2024, 2025 and 2026 was published in the Official Journal of the European Union (Implementing Regulation (EU) 2023/731 of 3 April 2023; <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0731>). According to this, specifically defined foodstuffs are analysed for each year (10 of plant origin and two of animal origin). The results of the analyses will be submitted by the Member States by 31 August of the following year. The previous Regulation (EU) 2022/741 will be repealed as of 1 January 2024, but will remain valid until 1 September 2024 for the samples to be analysed in 2023.

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 obtained 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).

Modifications regarding veterinary drugs

Notification of the BVL regarding veterinary drugs:

The Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit (BVL)) published the announcement regarding the approval of veterinary drugs and other official acts as of 3 March 2023 (in German: https://www.bvl.bund.de/SharedDocs/Downloads/05_Tierarzneimittel/Bekanntmachungen/2023_03_22_Bekanntmachung_BAnz.pdf?__blob=publicationFile&v=2).

Sentences

Eggnog advertising "Ei, Ei, Ei, Ei, Ei" ("Egg, egg, egg, egg, egg"):

The advertising of an eggnog manufacturer for its products with the phrase "Ei, Ei, Ei, Ei, Ei" ("Egg, egg, egg, egg, egg") does not infringe the interests of the company Verpoorten, which advertises its eggnog with the protected slogan "Eieiei Verpoorten" (Higher Regional Court of Düsseldorf, Sentence dated 27 April 2023, Ref. I-20 U 41/22, in German: <https://openjur.de/u/2468121.html>).

Advertising with regionalism:

If meat products are prominently advertised with the slogan "from regional farms" and then only a small label reveals that the product comes from a completely different federal state, this is considered misleading. This was the opinion of both the Oldenburg Regional Court (13 September 2022, Ref. 12 O 112/22) and the Oldenburg Higher Regional Court (28 February 2023, Ref. 6 U 125/22). However, the matter has not yet been decided with legal finality, as a non-admission appeal is pending before the Federal Supreme Court (BGH) (in German: <https://www.verbraucherzentrale-bawue.de/urteilsdatenbank/lebensmittel/irrefuehrende-werbung-mit-regionalitaet-83019>).

Miscellaneous

Baby food:

The Delegated Regulation (EU) 2023/589 of 10 January 2023 was published in the Official Journal of the European Union on 17 March 2023. This Regulation updates and supplements the protein requirements for infant formulae and follow-on formulae manufactured from protein hydrolysates. The Regulation came into force on 17 March 2023 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0589>).

Aceto Balsamico di Modena (P.G.I.):

With Implementing Regulation (EU) 2023/512 of 3 March 2023, the amendments to the product specification of Aceto Balsamico di Modena (PGI) already published in the Official Journal in 2021 were approved by the Commission.

Links:

Implementing Regulation:

- <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0512&qid=1683563435336>

Official Journal of the European Union, C 231, 16 June 2021:

- <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2021:231:FULL>

Last update: 27 April 2023

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 17 March and 8 May 2023**.

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: 52	peanuts, figs, pistachios, hazelnuts, almonds, walnut kernels (including products)			42
	popcorn, popcorn maize	Turkey, Italy, unknown	B1: up 37.5 µg/kg; total: up 40.4 µg/kg	6
	Nutmeg	Indonesia, Turkey	B1: up 18 µg/kg	2
	cayenne pepper	Spain	B1: 9.49 µg/kg; total: 10.0 µg/kg	1
	spice mixture	Nigeria	B1: 12.1 µg/kg; total: 14.8 µg/kg	1
Ochratoxin A	chili spice preparation	Germany (raw mat. China)	46.5 µg/kg	1
	pistachios	USA	up 37.4 µg/kg	1
	cereal bars for children	Italy	up 7.22 µg/kg	1
	dehydrated barley malt syrup	Belgium	3.8 µg/kg	1
	dried figs	Turkey	24 µg/kg	1
	dried grapes, raisins	Uzbekistan, China, Turkey	up 30.1 µg/kg	3

Reason for Notifying	Product	Country of Origin	Notes	Number
Alternaria toxins	Figs	Turkey	Tenuazonic acid: 2,380 µg/kg	1
Citrinin	food supplement	USA	> 150 µg/kg	1
Fumonisin	corn flour	France		1
	corn snack for children	Finland	290 µg/kg	1
Patulin	apple and strawberry puree	Belgium	49 µg/kg	1
Heavy Metals / Other Metals				
Lead	ground onions	Turkey	10.4 mg/kg	1
	Mabele Kaolin	Cameroon	27.6 mg/kg	1
Cadmium	fish, mackerel, sepia	Indonesia, Spain, Vietnam	up 2.2 mg/kg	3
	pineapple, passion fruits	Costa Rica, Colombia	0.13 mg/kg	2
	food supplement	China	2.8 mg/kg	1
Mercury	fish/fish products	Spain, Portugal, Italy, Sri Lanka, Morocco, Tunisia	up 4.7 mg/kg	13
Arsenic	sodium tripolyphosphate (E 451)	China	10 mg/kg	1
Tin	ananas slices in syrup	Thailand	up 287 mg/kg	1
Other Contaminants / Residues				
Ethylene oxide, 2-Chloroethanol	food supplement	India		3
	paprika /chilies, turmeric, blue fenugreek seeds	India, Lebanon, Georgia		3
	fennel seed powder	India		1
	sesame	India		1
	organic vine leaf	Spain		1
Benzalkonium chloride (BAC)	lemons	Turkey	3 mg/kg	1
Perchlorate	Moringa leaf cut/tea	Spain	4.2 mg/kg	1
Benzo(a)pyrene, PAH	roasted wheat (freekeh)	Syria	Benzo(a)pyrene: 7.2 µg/kg	1
	ginger powder	China	PAH: 0.115 mg/kg	1
	food supplement	France		1
Furan	meals for children	Spain		1
Mineral oil	palm oil	Guinea	3.69 mg/kg	1
	rice oil	Thailand	41.8 mg/kg	1
	sunflower oil	Ukraine	MOSH: 17.19 mg/kg; MOAH: 2.45 mg/kg	1
Acrylamide	wholemeal crackers	Germany	561.57 µg/kg	1
	biscuits	Bosnia and Herzegovina		1
Glycidyl esters	organic sunflower oil	Ukraine		1
Ergot alkaloids (<i>Claviceps purpurea</i>)	wholemeal rye flour	Spain	> 1000 µg/kg	1
Pyrrolizidine alkaloids (PA)	cumin	Turkey	1,553.4 µg/kg	1

Reason for Notifying	Product	Country of Origin	Notes	Number
	oregano	Greece, Turkey, Poland	up 0.024 g/kg	4
Tropane alkaloids	bread made from teff flour	Germany	Atropine: up 1,236.4 µg/kg; Scopolamine: up 463.3 µg/kg	1
	organic teff flour	Germany (raw mat. Netherlands)	Atropine: up 526 µg/kg; Scopolamine: up 300 µg/kg	2
	organic corn	France	Atropine: 160 µg/kg; Scopolamine: 20 µg/kg	1
	popcorn	Germany (raw mat. Netherlands)	Atropine: 16.7 µg/kg; Scopolamine: 2.3 µg/kg	1
Cyanide	linseed	Kazakhstan	234 mg/kg	1
	apricot kernels	Turkey, Pakistan	up 1,745 mg/kg	2
	almonds	Austria		1
Pharmacological Active Substances				
1,3-Dimethylamylamine (DMAA), 1,3-Dimethylbutylamine (nor-DMAA)	food supplement	UK		1
Cannabidiol (CBD), Cannabigerol (CBG)	food supplement	Czech Rep., Netherlands, unknown		4
	candies, chewing gum	Czech Rep.		2
	CBD oil	Austria, France		2
	tea	Czech Rep., Netherlands		2
Hexahydrocannabinol (HHC)	fruit gummies and oil	unknown		1
Tetrahydrocannabinol (THC)	food supplement	Germany, Czech Rep.		2
	hemp flower tea	Germany	198.3 mg/kg in dry matter	1
Leukomalachite green	Catfish (<i>Clarias gariepinus</i>)	Vietnam	1.7 µg/kg	1
Nitrofuran metabolite	shrimps	India, Vietnam	up 13.2 µg/kg (AOZ)	2
	frog legs	Vietnam	14.62 µg/kg (AOZ)	1
	frog legs	Turkey	4.12 µg/kg (SEM)	1
Sulfonamides	rabbit meat	Italy	Sulfadimethoxine: > 150 µg/kg	1
Tilmicosin	bovine muscle	Poland	330 µg/kg	1
Sibutramine	food supplement	Turkey		2
Sildenafil	food supplement	South Korea, Turkey		2
Yohimbine	food supplement	UK		1
Unauthorised Colours				
Sudan I, Rhodamine B, Orange II	chili powder	Togo		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Sudan IV	palm oil	Cote d'Ivoire		1
Titanium dioxide (E 171)	soft drinks	Netherlands		1
Miscellaneous				
Magnesium in metal form	food supplement	USA, Slovakia		3
Parasitic infestation with Anisakis	fish	Morocco, France, Argentina, Poland, Spain		7
Unauthorised irradiation	frog legs	Vietnam		1
Foodborne disease outbreak	cinnamon, oysters	Vietnam, Norway, France		3
Pathogenic Germs				
Salmonella total: 92	meat/meat products (including poultry)			52
	mussels	Chile		1
	soft cheese	Italy		1
	sesame / sesame products	Germany, Jordan, Turkey, India, Nigeria, Egypt, Syria		20
	pistachio paste	Italy		1
	betel leaves	India		1
	black pepper	Brazil		4
	mint, onion powder, majoran, curry powder, aniseed, paprika powder	Morocco, Hungary, Germany, Egypt, Turkey, Spain, China		9
	tiger nut flour	Burkina Faso		1
	bread salad with ham	Belgium		1
	cream cake	Slovenia		1
<i>Listeria monocytogenes</i>	fish / fish products, shrimps	Ireland, Lithuania, Germany, Denmark		4
	meat / meat products (including poultry)	Italy, Spain, France, Hungary, Poland		6
	cheese, gorgonzola, mozzarella, raw milk cheese	France, Italy		6
	butter, cream product (kajmak)	France, Poland, Austria		3
	broccoli	Poland		1
	dumplings with meat filling, wheat pancakes	Poland, France		2
Shigatoxin producing E.coli (STEC)	veal meat, minced beef, beef, Filet americain	Netherlands, Belgium, Argentina, Poland		6
	fermented raw milk, raw milk cheese, goat cheese	France		3
	broad beans, tarragon	Morocco, Israel		2
<i>Campylobacter</i>	duck breast, chicken elements	Hungary, Poland		2

Reason for Notifying	Product	Country of Origin	Notes	Number
<i>Bacillus cereus</i>	sprouts, prepared dish	Germany, Austria		2
Coagulase-positive staphylococci	raw milk cheese (Reblochon)	France		1
<i>Vibrio cholerae</i> , <i>Vibrio parahaemolyticus</i>	shrimps	Ecuador		6
Norovirus	oysters, mussels	France, Ireland, Croatia		8

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