

No. 3 – June 2018

Sentence

The official publication of violations of the food law according to Section 40 Subsection 1a of the food, feed and essential commodities code (Lebensmittel- und Futtermittelgesetzbuch (LFGB)) must be limited in time. In their decision dated 21 March 2018 (1 BvF 1/13), the Federal Constitutional Court stated that, generally, name disclosures are in accordance with the constitution in the event of violations but that a limit in time is missing. The latter must now be provided subsequently by the legislator by 30 April 2019. The Federal Constitutional Court explained further details in its Press Release No. 32/2018 dated 4 May 2018

(<http://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2018/bvg18-032.html>).

Modifications Regarding Pesticides

■ Quinalofop-P-ethyl: On 16 March 2018, the Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit (BVL)) mandated the suspension of the approval for the pesticide DIGATOR (which is also sold under the name Grasser 100 EC) with the active agent Quinalofop-P-ethyl for use in winter oilseed rape. Since then, the marketing for this application in winter oilseed rape and also the application itself are no longer permitted.

■ Deltamethrin: On 12 April 2018, the BVL revoked the approval of the pesticide SCATTO with the active agent deltamethrin for application on maize.

■ Maximum residue levels in radish/garden radish leaves: In their specialist reports regarding pesticides (www.bvl.bund.de), the BVL stated on 22 December 2017 that the exceedance of the maximum residue levels in radish and garden radish leaves will be possible in the future. As the background to this, an update of Annex I of Regulation (EC) No. 396/2005 was specified which had the effect that, since 1 January 2018, the maximum residue levels for green cabbage also applied to radish and garden radish leaves. Since no residue data were available for these leaves, the BVL could not ensure that, when applying the pesticides that are approved for radish and garden radish, the maximum residue levels for the leaves are complied with and, regarding the concerned pesticides, had to stipulate by means of obligations that the leaves are to be removed where

appropriate. On 27 March 2018, the BVL announced that, through a variations regulation, Annex I is modified in such a manner that, from 1 April 2018 to 31 December 2021, the classification of the radish/garden radish leaves as belonging to green cabbage does not apply. This classification will only come into force from 1 January 2022.

■ Pesticides with neonicotinoids: In its specialist report dated 27 April 2018, the BVL announced that the EU Committee responsible accepted the proposal of the European Commission to restrict the use of the three bee-harming neonicotinoid active substances clothianidin, imidacloprid and thiamethoxam in plant protection to greenhouses in the future. For these three active substances, corresponding implementing provisions will be issued. They will come into force 20 days after having been published in the Official Journal of the European Union. Subsequently, the Member States need to terminate the corresponding approvals within three months or modify them according to the new specifications. In its report that was published on 28 February 2018, the European Food Safety Authority (EFSA) concluded that no outdoor applications exist that can be deemed to be safe with regard to honeybees and other pollinators.

■ Fipronil: On 4 April 2018, the BVL published findings for fipronil in processed egg-containing foods, and on 3 May 2018 the results of the analyses in eggs and poultry. For more information, please refer to www.bvl.bund.de (press releases).

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, concerning the following subjects on its 80th working conference:

■ Exceptions from the mandatory nutrition declaration: The statement that was enacted on the 74th working conference in this regard has been withdrawn. In lieu thereof, it is pointed to the "Decision-making aid of the states regarding the exceptions of the mandatory nutrition declaration according to Annex V No. 19 Regulation (EU) No. 1169/2011". The latter is available in German on the Baden-Württemberg consumer portal (www.verbraucherportal-bw.de → [direct link](#))

■ Use of colourants for the decoration of surfaces: According to the ALTS, pure additives (e.g.

colourants, coating agents) and also their preparations, for the decoration or garnishment of food, do not come under category 05.4 (decorations, coatings and fillings) or "08.3.3" * (intestines and other products for the casing of meat) of Part E of Annex II of Regulation (EC) No. 1333/2008. When products are decorated with pure additives or additive preparations, an approval of the respective additive must be available in the product-specific category of Part E of the mentioned regulation.

*(08.2.3 as the original text in Annex II of Regulation (EC) No. 1333/2008)

- Trace labelling (milk, wheat) regarding "lactose-free" or "gluten-free" food: The indication "lactose-free" (for persons with a lactose intolerance) in connection with the reference "may contain traces of milk" (advice for persons suffering from a milk protein allergy) is not considered to be "misleading information" provided that the customary requirement for the definition "lactose-free" has been met. The same applies to the claim "gluten-free" with the trace reference "may contain traces of wheat".

- Information for persons suffering from an allergy (regarding gluten) for "gluten-free" products: The claim "gluten-free" in combination with the reference "may contain traces of gluten" may be misleading for the consumer.

- Claiming food with the reference "made of non-gluten-containing raw materials": According to the "Implementing Regulation (EU) No. 828/2014 of the Commission of 30 July 2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food", only the indications "gluten-free" or "very low gluten" may be used. Therefore, references such as "made of non-gluten-containing raw materials" are considered to be not allowed, also in connection with other indications.

- Use of nitrates in processed fishery products: According to Regulation (EC) No. 1333/2008, the use of E 251- E 252 (nitrate) is allowed "only (for) pickled herring and sprat". In the view of the ALTS, this also includes semi-preserves of herrings and sprats.

- Addition of nitrite to so-called "carpaccio": The use of nitrite in a raw "carpaccio" is considered to be not allowed.

- "Imitation regulation" – interpretation of the term "product name" in the sense of the Appendix VI Part A No. 4 of Regulation (EU) No. 1169/2011 (Food Information Regulation):

The ALTS considers that, as a matter of principle, the "product name" is the indication with which food is designated in an eye-catching manner and which makes the consumer expect a certain constituent or ingredient, possibly also taking into account the entire appearance. According to this, the "product name" can be the designation of the food but also an invented name or a brand name.

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

The respective exact wording is published in German at www.bvl.bund.de (→ [direct link to the ALTS](#)).

News from the BfR

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

- Shiga toxin-producing *E. coli* (STEC): A prognosis regarding the pathogenic potential of the different strains is not yet possible. Therefore, all the STEC are classified as potentially pathogenic. To be protected from infections, the BfR recommends the destruction of the pathogens through heating processes such as cooking, frying or pasteurising (core temperature of 70°C and more for at least two minutes). More information is provided in Statement No. 009/2018 dated 19 April 2018.

- Table potatoes: On the occasion of a poisoning incident which was presumably caused through the consumption of a potato dish, the BfR published three articles on 23 April 2018 on the subject of glycoalkaloids (solanine) in potatoes:

- Table potatoes should show low contents of glycoalkaloids (solanine) (Statement No. 010/2018).

- Questions and answers regarding solanine (glycoalkaloids) in potatoes.

- Solanine in potatoes: green and strongly sprouting potato tubers should be sorted out (Press Release No. 15/2018).

For details, please refer to www.bfr.bund.de.

Miscellaneous

- Residues of veterinary medicinal products - fluazuron: With the Implementing Regulation (EU) No. 2018/523 of the Commission dated 28 March 2018 regarding the modification of Regulation (EU) No. 37/2010, the applications for the substance fluazuron were extended and further maximum levels defined. The implementing regulation came into force on 24 April 2018 and applies since 3 June 2018.

- Food additives: On 24 April 2018, "Regulation (EU) 2018/627 of the Commission of 20 April 2018 correcting certain language versions of Regulation (EC) No. 1333/2008 of the European Parliament and of the Council on food additives" was published in the Official Journal. With this variations regulation, various language errors were corrected. The regulation came into force on 14 May 2018 and applies directly in every Member State.

- Novel Food: On 20 March 2018, "Implementing Regulation (EU) 2018/456 of the Commission of 19 March 2018 on the procedural steps of the consultation process for the determination of the novel food status in accordance with Regulation (EU) 2015/2283 of the European Parliament and of

the Council on novel foods" was published in the Official Journal of the European Union. The latter includes, amongst others, term definitions (Art. 2), indications regarding the submission, content and procedures for verifying the validity of a consultation request (Art. 3-5), and indications regarding confidentiality (Art. 9). The Implementing Regulation came into force on 9 April 2018 and, since then, applies directly in every Member State.

■ Catechins from green tea: The European Food Safety Authority (EFSA) published a safety assessment regarding catechins from green tea (EFSA Journal 2018; 16(4): 5239). "EFSA concluded that catechins from green tea infusions and similar drinks are generally safe. When taken as food supplements, however, catechin doses at or above 800 mg/day may pose health concerns." (<https://www.efsa.europa.eu/en/press/news/180418>)

■ Food fraud – illegal colouring of tuna: In its press release dated 25 April 2018, the Federal Office of Consumer Protection and Food Safety (BVL) provided the information that, within the scope of the worldwide operation OPSON VII, which is coordinated by Europol and INTERPOL, action was taken against food fraud regarding tuna in Germany

and in ten other European countries. At the beginning of February, 155 tonnes of fresh and frozen tuna were analysed in Germany for illegal colouring during 205 checks. In 15 cases, misleading practices were detected, ranging from treatment with carbon monoxide and nitrate or nitrite, via enhanced concentrations of ascorbic acid to undeclared ingredients. For more details, please refer to www.bvl.bund.de.

■ Food hygiene – coffee-to-go cups: The German Federation for Food Law and Food Science (Bund für Lebensmittelrecht und Lebensmittelkunde e.V (BLL)) published the "leaflet coffee-to-go cups – hygiene regarding dealing with customers' own cups for the supply of hot beverages in full service or self-service (February 2018)". The leaflet is considered as a recognised economic community's guideline and is available in German for free download on the BLL's website (www.bll.de → [direct link to the leaflets](#)).

Last update: 7 May 2018

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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 12 March 2018 and 9 May 2018**.

Source:

https://www.bvl.bund.de/EN/01_Food/01_tasks/04_RapidAlertSystem/01_RASFF_notifications/RASFF_notifications_node.html
(extracts of the RASFF, anonymized and shortened by editorial preparation at the BVL)

Reason for Notifying	Product	Country of Origin	Notes	Number
Mycotoxins				
Aflatoxins total: 141	nuts, nut products, figs, pistachios, peanuts, almonds, melon kernels, apricot kernels			122
	chili, chili powder	India, Ethiopia	B1: up 14.6 µg/kg; total: up 40.8 µg/kg	2
	nutmeg	Lebanon	B1: 62 µg/kg; total: 68 µg/kg	2
	millet flour	India	B1: 80.21 µg/kg; total: 86.51 µg/kg	2
	confectionery	Turkey	B1: up 19.2 µg/kg; total: up 21 µg/kg	9
Deoxynivalenol (DON)	breakfast cereals	Italy		1
Ochratoxin A	apricots, figs, raisins, sultanas	Turkey	up 52.4 µg/kg	20
	cereal product, breakfast cereals	Belgium, Italy	7.5 µg/kg	3
	coffee	Turkey	9 µg/kg	1
	nutmeg	Lebanon	250 µg/kg	2

Reason for Notifying	Product	Country of Origin	Notes	Number
	pistachio, pistachio powder	USA, Turkey	up 45 µg/kg	3
Heavy Metals / Other Metals				
Cadmium	horsemeat	Spain		1
	asparagus	Peru	0.192 mg/kg	1
	spinach	Belgium	0.45 mg/kg	4
	squid, cuttlefish, swordfish	Spain, India, Argentina, Indonesia	up 6.4 mg/kg	18
Mercury	fish/fish products		up 2.7 mg/kg	53
Other Contaminants / Residues				
Fipronil	eggs	Spain		3
Benzo(a)pyrene, PAH	pork	Poland	Benzo(a)pyrene: 6.3 µg/kg; PAH: 37.4 µg/kg	1
	coconut oil	Sri Lanka, UK	Benzo(a)pyrene: 2.9 µg/kg; PAH: 28.7 µg/kg	8
	hazelnut oil, sunflower oil, organic black cumin oil	France (produced Italy), Ukraine, Belgium		4
	palm oil	Guinea, UK, unknown	Benzo(a)pyrene: up 3 µg/kg; PAH: up 18.4 µg/kg	5
	bear`s garlic, organic bear`s garlic, bay leaves, cocoa press	Bulgaria, Turkey, Indonesia		8
	food supplement	Germany, Germany (raw material China)	Benzo(a)pyrene: 6.7 µg/kg; PAH: 30 µg/kg	6
Mineral oil (MOSH, MOAH)	pastry	France		3
Monoethylene glycol	cheese preparation	France		5
Tetrahydrocannabinol (THC)	organic hemp seeds	China and unknown via Netherlands		3
3-Monochlorpropandiol (3-MCPD)	soy sauce	Philippines		1
Chlorate, Perchlorate	beverage	USA		1
Dehydroacetic acid	cheese	Spain		3
Dichlormethane	mineral water	Italy		1
Shellfish poisoning toxins (ASP, PSP)	big pilgrim shell, scallops, mussels	Norway, Belgium	ASP: 21,180 µg/kg; PSP: 1,178 µg/kg	7
Histamine	fish / fish products		256.1 mg/kg	7
Hydrocyanic acid	bitter almonds	Spain	2,089 mg/kg	7
	organic apricot kernels, apricot kernels	Pakistan, China, Turkey, Afghanistan, unknown	up 500 mg/kg	27

Reason for Notifying	Product	Country of Origin	Notes	Number
Pharmacological Active Substances				
1,3-Dimethylbutylamine (DMAA)	food supplement	USA, unknown		6
2,4-Dinitrophenol (DNP)	food supplement	China, unknown, USA		3
Anthraquinone	green tea, tea	Morocco, China	up 0.062 mg/kg	3
Diclofenac	horsemeat, donkey meat, cattle-carcasses	Romania, Belgium (partly raw mat. Spain), Hungary	13.7 µg/kg	20
Ivermectin	beef product	Brazil	45.5 µg/kg	2
Leucomalachite green	trout, carp	Czech Rep., White Russia	7.73 µg/kg	2
Nitrofurantoin/ -metabolites	prawns, catfish	India, Vietnam, Thailand		10
Ofloxacin	catfish	Vietnam	1.97 µg/kg	1
Sildenafil	food supplement	China, Germany, Spain, USA, Austria, unknown		25
	tea preparation	China		1
Tadalafil	food supplement	Spain, Portugal, USA, UK		11
Tetracyclines	veal	Belgium	117 µg/kg (Doxycyclin)	9
Vardenafil	food supplement	UK		1
Unauthorised Colours				
Auramine O	spice blend, chili powder	Bangladesh		2
Sudan IV	palm oil	Ghana, Guinea, UK, unknown	up 352 µg/kg	15
Rhodamine B	confectionery	Pakistan		1
Miscellaneous				
Parasite infestation with anisakis	European hake, mackerel, monkfish	France, Spain, Denmark, Netherlands		13
Pyrrolizidine alkaloids (PA)	flower pollen, borage	Spain, Germany, Poland		10
GMO not authorized	rice, rice gnocchi	China	(rice)	3
Irradiation	frog legs, chili powder, coriander powder	Vietnam, Bangladesh		6
Food dependent disease outbreak	oysters, mussels	France, Spain		38
	soft cheese	France		5
	horsemeat, sausage	Belgium, Belgium (raw mat. Hungary), Italy, Spain		21
	tuna	France (raw mat. Thailand), Netherlands (raw mat. Sri Lanka)		5

Reason for Notifying	Product	Country of Origin	Notes	Number
	sailfish	Spain		3
	dates, raspberries	Iran, Morocco (packed Netherlands)		5
Pathogenic Germs				
Salmonella total: 273	Infant formula	France		3
	meat / meat products			152
	warty venus	France		1
	egg products	Netherlands, Denmark		5
	sesame seed	Ethiopia, India, Nigeria, Sudan, Turkey, Uganda		34
	spices, spice blend	Egypt, India, Turkey, China, Brazil, Slovakia, Spain, Sri Lanka		34
	organic amaranth	Germany (raw mat. India), Austria (raw mat. Germany)		20
	nettle leaves, desiccated coconut, linseed	Belgium, Germany, Philippines, Kazakhstan		15
<i>Listeria monocytogenes</i>	fish / fish products	Poland		1
	cheese, raw milk cheese, soft cheese, goat cheese	Belgium, Italy, Romania, France		81
	meat / meat products	Spain, Austria, Netherlands, New Zealand, Argentina, Italy, Lithuania		24
	organic cracker, spread, enoki mushrooms, fruit mixture	Romania, Germany, Rep. Corea, Belgium		9
	corn	Hungary (packed in Poland)		27
	Shigatoxin producing E.coli	meat / meat products	Australia, New Zealand, France, Belgium, Brazil, Uruguay, Austria	
camembert, cheese, raw milk cheese, soft cheese		France		54
<i>Cronobacter sakazakii</i>	baby food	Germany, Germany (raw mat. France), Netherlands		22
<i>Campylobacter (coli, jejuni)</i>	chicken breast, chicken legs	France		3
<i>Vibrio vulnificus</i>	prawns	Indonesia		1
Norovirus	oysters, mussels, pacific cupped oysters	France, France (packed in Italy), Netherlands, Spain		73

Reason for Notifying	Product	Country of Origin	Notes	Number
	blueberries, strawberries, raspberries	raw material Lithuania (packed Poland), Egypt, Poland		7
	organic fruit mixture	Germany (raw material from Poland, Serbia, Turkey and Morocco)		3

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