

No. 2 – April 2019

Health Claims Regulation

Approvals for traditional indications with health references: with Regulation (EU) 2019/343 of the Commission from 28 February 2019 (Official Journal L 62, Page 1), exceptions from Article 1 Paragraph 3 of Regulation (EC) No. 1924/2006 (Health Claims Regulation - HCR) regarding the use of certain general designations were published. With these, cough sweets, for example, may again be marketed under their traditional designation in the future without having to consider the specifications of the HCR. The permissible designations and the respective defined conditions are listed in the Annex of the regulation. The regulation came into force on 21 March 2019 and shall apply directly in every Member State (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0343&from=EN>).

Modifications Regarding Pesticides

■ Turnip tops (turnip greens) belong to the leafy brassica: in its specialist report from 6 February 2019, the Federal Office of Consumer Protection and Food Safety (BVL) published that turnip tops will, with immediate effect, be regrouped to the crop group of leafy brassica as regards the approval of pesticides. This means: pesticides that have been authorised for "leafy brassica" and the superordinate group of "brassica vegetables" can be applied in turnip tops from now on.

(https://www.bvl.bund.de/EN/04_PlantProtectionProducts/12_Fachmeldungen_EN/2019/2019_02_06_turnip_tops_now_leafy_brassica.html?nn=2153768)

■ Maximum residue levels (MRL): with Regulations (EU) 2019/88, 2019/89, 2019/90, 2019/91, 2019/58 and 2019/50, the MRL of the following pesticide active agents were modified:

acetamiprid, bromadiolone, bromuconazole, buprofezin, carboxin, chlorantraniliprole, clomazone, cyaniliprole, diflubenzuron, ethoxysulfuron, etofenprox, fenazaquin, fenbutatin oxide, fenpicoxamid, fenpyrazamine, fluoxastrobin, ioxynil, lambda-cyhalothrin, linuron, mepiquat, molinate, paclobutrazol, penconazole, picoxystrobin, pyridaben, tepraloxydim, thiacloprid, valifenalate and onion oil.

Note: partially, no transitional regulations were granted.

Sentences

■ No European organic logo for "halal" meat: the European Court of Justice (ECJ) decided that meat that originates from ritual slaughtering without prior anaesthesia may not be provided with the European organic logo (ECJ from 26 February 2019, Reference Number C-497/17). The ECJ arrived at the conclusion that ritual slaughtering without prior anaesthesia does not meet the high animal welfare standards that would justify granting the EU organic logo.

■ "Glen" whiskey: on 7 June 2018, the ECJ decided that the question as to whether a consumer *directly* thinks of the registered geographical indication "Scotch Whisky" when seeing a comparable product with the designation "Glen" must be decided by the national court (ECJ, Reference Number: C-44/17). Now, the Hamburg District Court argued in its sentence from 7 February 2019 that the designation "glen" makes the average consumer think of Scotch Whisky. Therefore, the designation "Glen Buchenbach" for whiskey from a Swabian distillery is considered misleading (Reference Number 327 O 127/16). In the event that an appeal will be filed, the Hanseatic Higher Regional Court would have to deal with this question.

■ Ham from Parma: the designation "Culatello di Parma" for ham from the Italian region Parma represents an illegal allusion to the protected designation of origin "Prosciutto di Parma". In the sentence of the Higher Regional Court of Cologne dated 18 January 2019 (Reference Number 6 U 61/18), the judges additionally pointed to the strong similarity to the protected product as regards the appearance and packaging. A revision was approved and, therefore, the Federal High Court of Justice will presumably deal with this case.

■ "Schwarzwälder Schinken" (Black Forest ham) – specifications for the place of processing: on 19 December 2018, the ECJ decided that the slicing and packaging of "Schwarzwälder Schinken" (protected geographical indication) may, under certain conditions, be limited to the area of production, in the event that this represents a necessary and proportionate means, for example, in order to assure the quality or provenance of the ham. It is, however, for the national court to decide as to whether or not an interdiction to slice and package the ham outside the Black Forest under the conditions that are

stipulated by the ECJ is legal (Reference Number C-367/17). Moreover, the decision rests with the Federal Patent Court that submitted the question to the ECJ.

- "Veierlikör" inadmissible: according to a sentence of the Treves District Court from 20 December 2018 (Reference Number 7 HKO 13/18), the designation "Veierlikör" for a vegan product without eggs represents an inadmissible allusion to the designation "Eierlikör" (advocaat) that is protected according to the spirit drinks regulation.

- Doner spits that are contaminated by salmonella – take-back obligation: on 7 February 2019, the Bavarian Administrative Court decided that deep-frozen Doner spits that were supplied to restaurant operators must be taken back from the market in spite of the reference "Cook thoroughly before consumption!" (Reference Number 20 B 17.1560). The appeal to the Federal Administrative Court was approved.

Miscellaneous

- New regulations for FSMP are now in force: the Delegated Regulation (EU) 2016/128 for Food for Special Medical Purposes (FSMP) that was adopted in addition to Framework Regulation (EU) No. 609/2013 has applied since 22 February 2019 now. The most important innovations are the following:

- the correct designation is "Food for Special Medical Purposes (balanced diet)",
- FSMP must be labelled in accordance with the Food Information Regulation (Regulation (EU) No. 1169/2011) unless specified otherwise in the Delegated Regulation,
- "For the diet management in the case of....." is a required additional advice now, amended by the disease, disturbance or discomfort for which the FSMP is intended,
- extended provisions apply to the nutrition declaration,
- nutrition and health-related indications for FSMP are prohibited.

- Monitoring of MOSH and MOAH – JRC guidelines were published: on 22 February 2019, the European Joint Research Centre (JRC) published guidelines regarding the sampling, analysis and reporting of MOSH and MOAH in food and food contact materials (<http://publications.jrc.ec.europa.eu/repository/handle/JRC115694>).

- Protection of designation for milk and milk products: with the modification of the German milk and margarine act in Article 2 of the law for the modification of the law on beef labelling and legal

provisions on milk (...) (Official Journal (BGBl.) Part I No. 2, dated 24 January 2019, page 33), the protection of designation for milk and milk products was strengthened. You will find the German wording of the law at <https://www.bgbl.de>.

- Veterinary drugs: the Bundesamt für Verbraucherschutz und Lebensmittelsicherheit ((BVL) Federal Office of Consumer Protection and Food Safety) published the declaration on the approval of veterinary drugs of 30 January 2019 (in German: https://www.bvl.bund.de/DE/05_Tierarzneimittel/05_Fachmeldungen/2019/2019_02_18_Monatsberichte_BANZ_Dez.html).

- BfR regarding food supplements: on 18 January 2019, the German Federal Institute for Risk Assessment (Bundesinstitut für Risikobewertung (BfR)) published questions and answers regarding food supplements. These can be downloaded as a PDF:

(https://www.bfr.bund.de/en/frequently_asked_questions_on_food_supplements-70347.html).

- D-A-CH Reference value for the vitamin B12 intake: together with the corresponding Nutrition Associations from Austria and Switzerland, the Deutsche Gesellschaft für Ernährung ((DGE) German Nutrition Association) revised the reference values for vitamin B12. The press release of the DGE you can find in German at:

<https://www.dge.de/presse/pm/neuer-referenzwert-fuer-die-vitamin-b12-zufuhr/>.

- Mayonnaise, salad cream and remoulade – BLL guideline: the German Federation for Food Law and Food Science (Bund für Lebensmittelrecht und Lebensmittelkunde e.V (BLL)) published the "Richtlinie für Mayonnaise, Salatmayonnaise und Remoulade" (guideline for mayonnaise, salad cream and remoulade) as a revised version (in German:

<https://www.bll.de/de/infomaterial/richtlinien>).

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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 23 January 2019 and 14 March 2019**.

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: 124	nuts, nut products, figs, pistachios, peanuts, almonds, melon kernels, apricot kernels, para nuts			107
	basmati rice, rice	Pakistan, India	B1: up 19.9 µg/kg; total: 21.6 µg/kg	6
	popcorn maize	France (partly raw material Portugal)		1
	chili, organic chili powder, chili powder, organic paprika powder	India, Sri Lanka, Spain	B1: up 20.8 µg/kg; total: 20.8 µg/kg	5
	organic muesli	Belgium	B1: 5.7 µg/kg; total: 8.8 µg/kg	1
	ginger	Germany	B1: 17.19 µg/kg	2
	nutmeg	Indonesia	B1: 31.3 µg/kg; total: 48.9 µg/kg	2
Ochratoxin A	raisins, sultanas	Pakistan, Turkey, Uzbekistan	up 37.5 µg/kg	9
	coffee	Vietnam	up > 15 µg/kg	2
	popcorn maize	France (raw material Portugal)		1
	organic rice, rice	Belgium (raw mat. Italy, Greece, India), Italy, Pakistan	14.1 µg/kg	5
	organic maize noodles, organic rye	Romania, Czech Rep., Poland	up 7.8 µg/kg	6
	soy product	India	44 µg/kg	2
	food supplement	India		1
	pistachios	Germany	67 µg/kg	1
Deoxynivalenol (DON)	oat flakes, oat products	UK		7
Heavy Metals / Other Metals				
Lead	food supplement	Netherlands		2
	raw sausages, salami	Italy (partly raw material Slovakia, Austria)	up 6.525 mg/kg	10
	venison, game goulash	Italy (partly raw material Slovakia), Slovenia (raw mat. Hungary)	0.912 mg/kg	11
Cadmium	mushrooms	China	0.673 mg/kg	1
	mussels, tuna, squid	UK, Cote d'Ivoire, India, Spain	up 3.16 mg/kg	7
	horsemeat	Romania		1
Mercury	fish / fish products		up 2 mg/kg	39
Nickel	food supplement	India (packed Slovenia)		1

Reason for Notifying	Product	Country of Origin	Notes	Number
Other Contaminants / Residues				
Benzo(a)pyrene, PAH	rapeseed oil, sunflower oil, organic coconut oil, coconut oil	Estonia, Russian Federation, Netherlands, Sri Lanka		6
	fish	Latvia	Benzo(a)pyrene: 6.5 µg/kg; PAH: 35 µg/kg	1
	ginger	China, Denmark, Czech Rep. (raw mat. China), UK	Benzo(a)pyrene: 50 µg/kg; PAH: up 138.5 µg/kg	26
	spice	Cameroon		1
	food supplement	China, France (raw mat. China)		17
Radioactivity	chanterelle	Ukraine	up 2,125 Bq/kg	1
Mineral oil (MOSH, MOAH)	cereal product	West Bank, Gaza Strip, via Sweden		1
Chlorate	food supplement	Spain, Germany	up 38.550 mg/l	5
Glycidyl esters	grape seed oil	Spain		3
Tropan alkaloids (Atropin, Scopolamin)	popcorn	Argentina		2
	peppermint, peppermint tea	Serbia	Atropin: 200.5 µg/kg; Scopolamin: 488.7 µg/kg	2
Morphine	poppy	Slovakia		2
Histamine	fish / fish products		up > 800 mg/kg	15
Ethyl carbamate	plum brandy	Belgium (raw mat. France)		1
Hydrocyanic acid	apricot kernels	Uzbekistan	up 1,834.8 mg/kg	3
Iodine	algae, organic algae	China, Rep. Korea, Spain	2,620 mg/kg	16
Pharmacological Active Substances				
2,4-Dinitrophenol (DNP)	food supplement	China, USA, Hong Kong, Turkey, unknown		15
Anthraquinone	tea	China	up 0.093 mg/kg	2
Azithromycin	fish	Vietnam	21 µg/kg	1
Cannabidiol	food supplement	Germany, Austria, Switzerland, Slovenia, Spain, UK, unknown		17
	chocolate	Hungary	1,750 mg/kg	2
Tetrahydrocannabinol (THC)	protein powder	Germany (raw mat. Romania)	1,740 µg/kg	20
Diclofenac	horsemeat and donkey meat	Romania		1
Crystal violet	pangasius fillets	Vietnam		1
Nitrofurantolol / -metabolites	white tiger prawns	India	26 µg/kg (AOZ)	1
	sausage	Spain (raw mat. Belgium)	1.1 µg/kg (SEM)	1
	sheep casings	China	(SEM)	1
Sildenafil	food supplement	Spain, Latvia, USA, Indonesia, China		11
Synephrine	food supplement	USA, UK		5
Tadalafil	food supplement	Spain, USA, Indonesia		6

Reason for Notifying	Product	Country of Origin	Notes	Number
Tetracyclines	fish	Japan	(Oxytetracyclin)	1
Tilmicosin	beef	Belgium	56 µg/kg	4
Yohimbine , yohimbe extract	food supplement	USA, unknown		9
Unauthorised Colours				
Rhodamine B	beets	Egypt, Syria, Jordan, Lebanon	> 2000 µg/kg	14
Sudan I, II, III, IV	palm oil	Ghana, Nigeria	Sudan IV: up 1,698 µg/kg	7
	chili powder	Turkey		4
Para Red	chili powder	Turkey		2
Miscellaneous				
Botulinum toxin	sardines	Portugal		10
Parasite infestation with anisakis	smoked salmon, mackerels, hake, monkfish, saithe, anchovies	Estonia, France, Netherlands, UK, Spain (raw mat. Portugal, France)		34
Pyrrolizidine alkaloids (PA)	food supplement	France, Netherlands	up 4,695 µg/kg	4
	St. John's wort	Germany, Netherlands, Spain, USA	up 4,847 µg/kg	7
	oregano	Germany (partly raw mat. Turkey), Austria (raw mat. Turkey), Turkey	up 35,447 µg/kg	18
GMO not authorized	rice product, rice	Hong Kong, China		2
	corn flour	USA		1
Irradiation	tea brew	Spain		3
food dependent disease outbreak	oysters	France		2
	trout fillets, yellowfin tuna, salmon products, tuna fillets, wahoo mackerel fillets	Sweden/Norway, Sri Lanka, Germany, Netherlands (raw mat. Sri Lanka), Vietnam		11
	sausage	Spain		3
	liquid egg white	France (raw mat. Spain, Germany, Netherlands)		10
	delicatess sauce	UK		5
	strawberries	Poland		2
	dried fruit, coconut mixture	Italy		6
	rice milk	Spain		63
	sesame paste	Israel		2
	celery puree	Belgium		2
various foods	UK		27	
Pathogenic Germs				
Salmonella total: 414	meat / meat products (including poultry)			248
	grooved carpet shells, mussels	Italy, Spain, Netherlands		11

Reason for Notifying	Product	Country of Origin	Notes	Number
	cheese, raw milk hard cheese, raw milk cheese, milk powder	Belgium, France, Poland		16
	pig`s intestines	Belgium		4
	spices	China, India, Syria, Brazil, Spain		40
	organic leek seeds, beetroot sprouts	Italy, Sweden		23
	sesame paste, sesame seeds	Lebanon, Ethiopia, India, Nigeria, Sudan, Tanzania, Chad		65
	organic hazelnuts, blueberries	Turkey, Ukraine (packed Poland)		3
	ready meal	UK		2
	food supplement	Philippines		2
<i>Listeria monocytogenes</i>	meat / meat products	Austria, France, Argentina, Uruguay, Ireland, UK, Italy, Poland		36
	fish / fish products	Denmark, Estonia, Latvia, Poland, Germany, Iceland, UK, Belgium		38
	butter, cheese, mozzarella, spread cheese	Ireland, Italy, Netherlands, Belgium		12
	organic tofu with spinach, kale, maize	Germany (raw mat. Turkey), Netherlands, Turkey, Hungary		7
	organic crackers, pastry	Romania, Belgium		3
Enteropathogenic E.coli (EPEC)	beef	UK		7
	cheese	France		4
Shigatoxin producing E.coli	raw meat product	Austria		1
	raw milk cheese	France		18
<i>Campylobacter</i>	chicken breast fillets, duck breast	Poland, France		2
Norovirus	oysters	France		15
	pacific crupped oysters	Portugal		4

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