

Food Safety EU

Trade Expo Indonesia
Jakarta - Indonesia
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Introduction

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- 19 attorneys
- Eindhoven (The Netherlands)
- Brainport region / AgriFood Capital
- Food/tech law
- Board member of Technology Arbitration and Mediation Institute



Agenda

1. Basic introduction in EU food law
2. How to comply with EU food law
3. Tips and pitfalls in contracts (of Sale) with EU parties
4. Arbitration and Mediation in Food Safety issues

Food Safety issues in the EU

DutchNews.n

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Jumbo supermarkets **recall** processed meats due to **listeria** scare

Business | Health | [f](#) [t](#) [in](#) [s](#) October 4, 2019



Photo: Danoistphotos.com

Chicken recall: Listeria possible in sandwiches, salads and dishes sold across US. Canada

Mike Snider | USA TODAY
Published 1:41 PM EDT Oct 10, 2019

French burger **fraud** is 'chapter 2' of the **horsemeat scandal**, campaigners warn

By Katy Askew [✉](#)
10-Jun-2019 - Last updated on 09-Aug-2019 at 08:49 GMT

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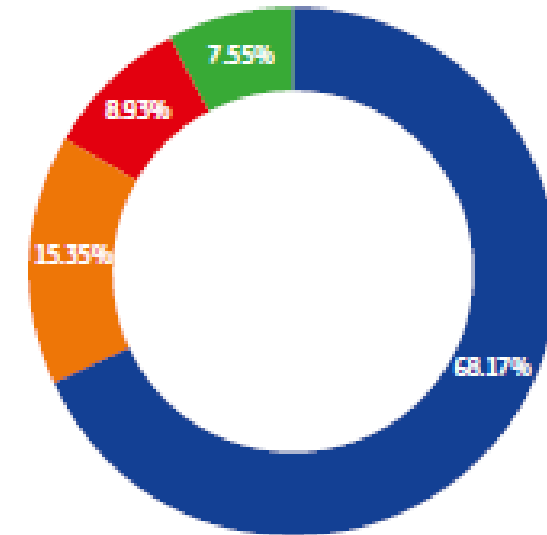
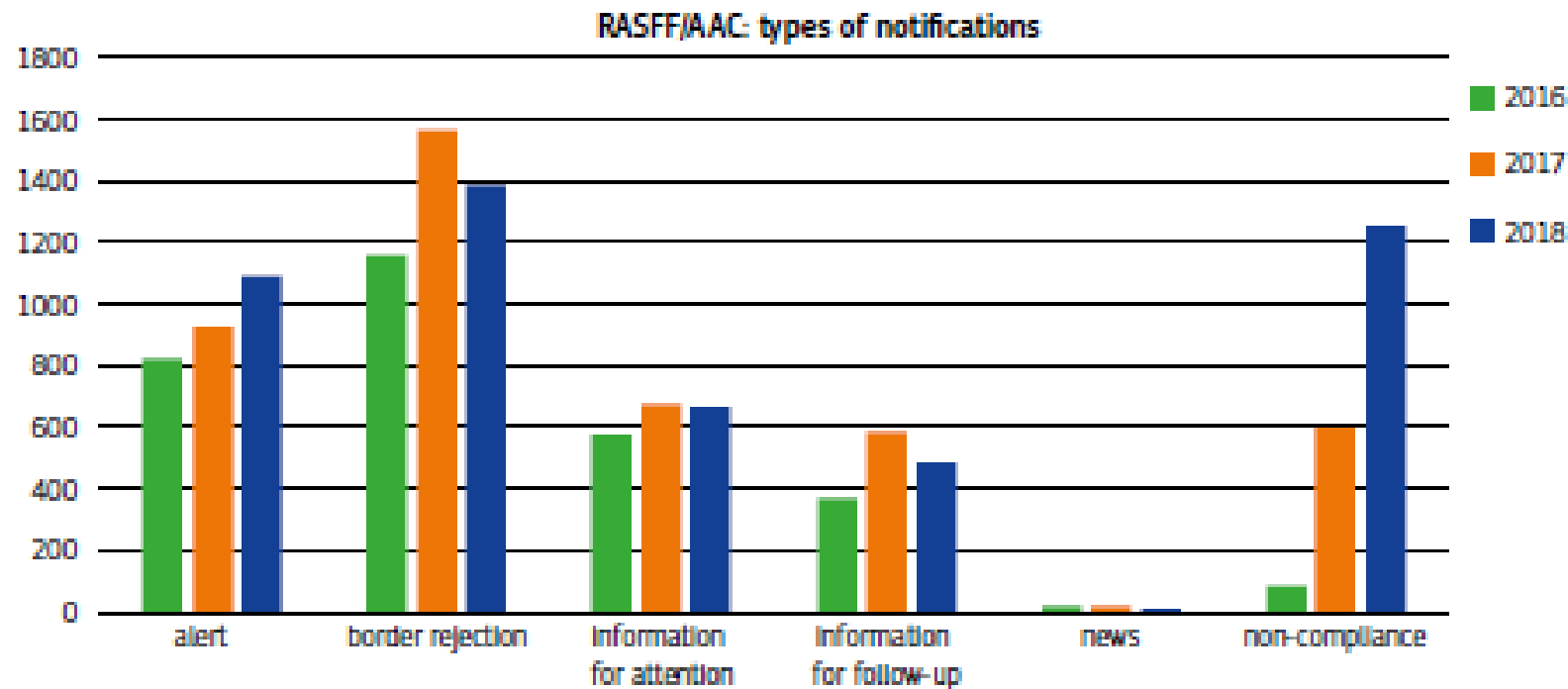


Seafood **fraud** investigation finds 1 in 5 **fish** mislabeled in US

FOOD - Published March 7

Rapid Alert System for Food and Feed 2018

AAC notifications per type of violation in 2018



- Mislabeling
- Unapproved treatment and/or process
- Documents
- Replacement / dilution / addition / removal in product

1. Basic introduction EU Food Law

- **General Food Law**: Directive 178/2002 of 28 January 2002
- Art. 14:
 1. Food shall not be placed on the market if it is **unsafe**.
 2. Food shall be deemed to be unsafe if it is considered to be:
 - (a) **injurious to health**;
 - (b) **unfit** for human consumption

Unsafe ?



Nestlé UK Kitkat recall

RELATED TAGS: Peanut, Consumer protection

Nestlé UK has recalled a batch of Kitkats as they have been mispacked meaning **peanuts and nuts are not declared on the label.**

Kitkat Original Milk Chocolate Bites were mispacked with Kitkat Peanut Butter Bites at a Nestlé factory in Sofia, Bulgaria.

As the product contains nuts and peanuts it is **a possible health risk for anyone with such an allergy.**

We look at:

- the normal **conditions of use** of the food by the consumer and at **each stage** of production, processing and distribution
- the information provided to the consumer, including **information on the label**, or other information generally available to the consumer

Injurious to Health?

We look at:

- the probable immediate and/or short-term and/or long-term **effects of that food** on the health of a person consuming it, but also on subsequent generations
- probable cumulative **toxic effects**

Who has a higher risk of getting *Listeria* food poisoning?

Lessons from *Listeria* outbreaks: Food poisoning can happen to anyone. Each year, about 48 million people in the US (1 in 6) get sick from eating contaminated food. It can be especially dangerous for pregnant women and their newborns; older adults; and people with immune systems weakened by cancer, cancer treatments, or other serious conditions (like diabetes, kidney failure, liver disease, and HIV/AIDS). *Listeria* is a prime example of how germs that contaminate food can cause sickness and death in these groups.

Pregnant women, fetuses, and newborn infants

Listeria can pass from pregnant women to their fetuses and newborns. It can cause miscarriages, stillbirths, and newborn deaths.

Chancy cheese
LISTERIA OUTBREAK: Queso fresco (a type of soft cheese) sickened 142 people, killed 10 newborns and 18 adults, and caused 20 miscarriages.

People with weakened immune systems

Listeria can spread through the bloodstream to cause meningitis, and often kills. The weaker your immune system, the greater the risk.

Contaminated celery
LISTERIA OUTBREAK: Pre-cut celery in chicken salad served at hospitals sickened 10 people who had other serious health problems. Five of them died as a result.

Adults 65 or older

Listeria can spread through the bloodstream to cause meningitis, and often kills. The older you are, the greater the risk.

Tainted cantaloupes
LISTERIA OUTBREAK: Contaminated whole cantaloupes sickened 147 people in 28 states and caused one of the deadliest foodborne outbreaks in the US. There were 33 deaths, mostly in adults over 65, reported during the outbreak.

What foods are risky?

When it comes to *Listeria*, some foods are more risky than others. Meet some of the other foods where *Listeria* is known to hide.

Raw Sprouts, Soft Cheeses, Raw Milk (unpasteurized), Deli Meats and Hot Dogs (cold, not heated), Smoked Seafood

SOURCE: CDC, 2013

Unfit for human consumption?

We look at:

- whether the food is **unacceptable** for human consumption according to its intended use, for reasons of **contamination**, whether by extraneous matter or otherwise, or through putrefaction, **deterioration or decay**



Packaging fault leads to ALDI mayo recall

6 December 2018



ALDI has recalled its popular 466g Colway Real Mayonnaise due to faulty packaging and the potential for glass breakage and injury or contamination.

"ALDI takes product quality and safety seriously. ALDI wishes to advise all customers of a recall of the above product," the retailer said.



Traceability throughout the supply chain

1. The **traceability** of food, and any other substance intended to be, or expected to be, incorporated into a food shall be **established at all stages of production**, processing and distribution.
2. Food business operators **shall be able to identify** any person from whom they have been supplied with a food, a food-producing animal, or any substance intended to be, or expected to be, incorporated into a food.

Withdrawal, recall or other measures

Art. 19 GFL:

- Indication that food is **unsafe**
- Immediately initiate to **withdraw** (product still in control) or **recall** (from consumers) the food
- inform the authorities and
- Inform the customers effectively and accurately
- when **other measures** are not sufficient to achieve a high level of health protection

Blockchain: New technology to limit damages

Verstegen NOOTMUSKAAT

Back to the Origin

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De oorsprong van nootmuskaat

Product: Gedroogde nootmuskaat ABCD - 10 gram

Oorsprong: Sangihe Island, Indonesië

- ✓ Goede kwaliteit
- ✓ Boer betaald
- ✓ Inkomen getoetst






Waar komt nootmuskaat vandaan? Dankzij blockchaintechnologie kom je daar nu met één QR-scan achter. Hieronder lees je wie de boeren achter jouw nootmuskaat zijn, of prijsafspraken met die boeren zijn nagekomen en of de nootmuskaat, zoals wij beloven, van de beste kwaliteit is. Koop nu bij Coop jouw nootmuskaat en claim hem via de QR-code. Zo maak je als laatste schakel de keten compleet, van

Onze boeren vertellen je graag meer

BOEREN > VERWERKER > EXPORTEUR > MERK > SUPERMARKT > CONSUMENTEN

Kaartgegevens ©2019 Google, INEGI Gebruiksvoorwaarden

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Boeren	Producten	Transacties
 <p>Pulau Sangihe</p> <p>Een kaartfout rapporteren</p> <p>Hertje Kalama Darat, Indonesië</p> <p>871.80 Kilogram 20 Transacties</p> <p>Over Hertje Hertje (48) woont samen met haar 4 familieleden op de Sangihe-eilanden in Indonesië. Het meeste inkomen van de familie komt van hun land, waarop Hertje nootmuskaat en andere gewassen verbouwt. De beste kwaliteit nootmuskaat verkoopt zij voor een goede prijs aan Verstegen Spices & Sauces.</p>	 <p>Nootmuskaat met foelie Nootmuskaat is de gedroogde pit van de nootmuskaatvrucht. Die heeft een warm en heel aromatische karakter, met een diepe, bitterzoete, houtachtige smaak.</p>	<p>Nootmuskaat met foelie </p> <p>uitgaand</p> <p>28.10 Kilogram</p> <p>31 december 2018</p> <hr/> <p>Nootmuskaat met foelie </p> <p>uitgaand</p> <p>58.10 Kilogram</p> <p>29 december 2018</p> <hr/> <p>Nootmuskaat met foelie </p> <p>uitgaand</p> <p>58.10 Kilogram</p> <p>29 december 2018</p>

Food & technology

Fighting fish fraud with science

March 18, 2019



Prototype: Coop Italia uses blockchain technology to track and trace its organic egg supply chain ©Connecting Food

Food Safety Technology Prevents Recalls

July 1, 2019 • By Michael Koeris, PhD

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(Editor's Note: This is an online-only article attributed to the August/September 2019 issue.)

Get Paid For Your Thoughts!

Wiley (Food Quality & Safety's publisher) is offering \$200 to qualified food scientists who

The recent rise in food recalls can be attributed, at least in part, to the improved detection methods and more advanced epidemiology tactics employed by FDA, USDA, and CDC. But these aren't the only factors contributing to escalating recall frequency. This increase is also being accelerated by the food industry's increased focus on changing consumer tastes for products that require a drastic modernization of common food safety practices.

Whole Genome Sequencing in Public Health and Food Safety Practice – the 21st century is now!

Wellington, New Zealand

31/10/2019

Flax and Fern Room, Massey University, Entrance A, Wallace Street, Mount Cook, Wellington



2. new Official Controls Regulation

- comprehensive risk-based control rules along the agri-food chain
- Controls will be performed without prior notice, unless this is necessary
- official controls will cover agri-food chain products from third countries
- the new rules require Member States to carry out regular, unannounced risk-based official controls to detect fraudulent or deceptive practices
- All rules will apply from 14 December 2019

3. Tips and pitfalls in contracts

- Food safety/quality/quantity issue: who has the burden of proof?
- Food product recalls: who pays the costs (testing) and damages
- Food quality testing: right to challenge the test results
- United Nations Convention on the International Sale of Goods: excluded?
- Limitation of liability
- Applicable law
- Dispute regulation: arbitration or civil courts?

Technology Arbitration & Mediation Institute

Prevention and settlement of technology related disputes

Technology Arbitration & Mediation Institute (TAMI)

- is an independent foundation
- For international arbitration, mediation and alternative dispute resolution
- For technology related disputes
- An alternative for civil courts proceedings
- Located in Eindhoven (The Netherlands)



Why involving TAMI?

- Pre-Dispute And Pre-Escalation Processes To Prevent Disputes:
“It usually costs less to avoid getting into trouble than to pay for getting out of trouble” (Professor Lewis Brown, 1950).
- Experts (including Food Safety/Quality Issues) available as arbitrator/mediator
- Arbitration with international recognised arbitration award.
- The New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards

The institute can resolve disputes regarding :

Commercial disputes related to

- supply chain issues with suppliers or customers,
- Disputes regarding the delivered products (quality, quantity, characteristics)
- Food product recall (costs of testing, damages)
- supply contract breaches and terminations
- agents and distributors
- Packaging
- Border control issues (who is responsible, pays damages when products are rejected).

De-escalation, mediation & arbitration

independent, impartial, competent, fast,
cost-effective and confidential