

GUIDANCE ON THE ORIGIN INDICATION OF THE PRIMARY INGREDIENT IN EDIBLE ICES

I. Purpose and scope of this Guidance

Article 26 of Regulation (EU) N° 1169/2011 on the provision of food information to consumers foresees the adoption of implementing acts in cases where the country of origin or the place of provenance of a food is given and where it is not the same as that of its primary ingredient.

On 28 May 2018 Implementing Regulation (EU) 2018/775 was adopted to fulfil this obligation. It entered into force on 1 June 2018 for application as of 1 April 2020. It clarifies how the origin of primary ingredients shall be labelled when it is different than the given origin of the food.

This Euroglaces Guidance aims to provide a common understanding of the 'primary ingredient' definition for the edible ices sector in the context of the Implementing Regulation (EU) N° 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 concerning the provision of information on the country of origin or place of provenance of the primary ingredient of a food where different to that given for the food.

This Euroglaces Guidance is intended to be used complimentary to the PFP-FoodDrinkEurope-EuroCommerce Guidance on Commission Implementing Regulation (EU) 2018/775 (*) and to the EU supporting document for the Questions and Answers on the application of the provisions of Article 26(3) of Regulation (EU) No 1169/2011 (**).

(*) www.fooddrinkeurope.eu/publication/guidance-on-the-origin-indication-of-the-primary-ingredient

(**) [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0131\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020XC0131(01))

II. Relevant legal provisions

The Implementing Regulation (EU) N° 2018/775 sets rules on how to apply the provisions laid down in Article 26(3) of Regulation (EU) No 1169/2011, i.e. the modalities to inform consumers about the country of origin or the place of provenance of the primary ingredient.

The provision of this information is only required when

- (1) the origin/provenance of a food is given on a voluntarily basis by the food business operator or pursuant to Article 26. (2)(a),

and

- (2) the origin of the primary ingredient is not the same as that of the food.

These two conditions – (1) and (2) – must be met simultaneously for the Implementing Regulation to apply.

The relevant provisions of Regulation (EU) No 1169/2011 can be found in section IV hereafter.

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III. The definition of Primary Ingredient for the Edible Ices category

The “primary ingredient” is defined by Article 2(2)(q) of Regulation (EU) No 1169/2011 as “an ingredient or ingredients of (a) a food that **represent more than 50%** of that food or (b) which are **usually associated** with the name of the food by the consumer and for which in most cases a quantitative indication is required.”

- a. Concerning the first part of the definition “an ingredient or ingredients of a food that **represent more than 50% of that food**”, how should the 50% threshold be calculated?

✓ **General rules**

The 50 % threshold should refer to the quantity of the ingredient as recorded at the time of its use in the manufacturing of the food, in line with the method used to determine the order in the list of ingredients (Article 18 of Regulation (EU) No 1169/2011).

- Example: when strawberry puree is used for the manufacture of sorbet and listed as ‘strawberry puree’ in the ingredient list, and provided it represents more than 50 % of the final product, ‘strawberry puree’ is the primary ingredient.

✓ **Specific cases**

1. When labelling reconstituted ingredients – how to calculate the 50% threshold when concentrated or dehydrated ingredients are used?

The use of concentrated or dehydrated ingredients is a very common practice in secondary processing for reasons of logistics, microbiological and physicochemical stability and standardization.

When a concentrated or dehydrated ingredient is declared in the ingredient list as a reconstituted ingredient, and it represents more than 50% of the product, the reconstituted ingredient is the primary ingredient.

- Example: when concentrated milk or (skimmed) powder milk is used for the manufacture of ice cream and listed as reconstituted or rehydrated (skimmed) milk in the ingredient list, the reconstituted or rehydrated (skimmed) milk is the primary ingredient provided it represents more than 50 % of the final product.

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2. When labelling recombined ingredients, the 50% threshold does not apply to labelled recombined (single) ingredients or category of food.

To make up the ingredient list for complex composite products like edible ices, it is common practice to fully breakdown the compound ingredients into their elementary (single) ingredients and recombine those in a shorter ingredient list.

As such labelled single ingredients, or categories of food, originate from various (compound) ingredients, which in their turn can come from very different geographical areas and/or from different suppliers, a consistent and meaningful origin labelling is not possible.

In these very common cases, the definition of primary ingredient would be inadequate, if the 50% rule was to refer to the labelled recombined ingredient or category of food

- Example: the single ingredient 'chocolate' can partly come from the chocolate coating, from the biscuits part, from inclusions, from the ice cream recipe itself, ...

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- b. Concerning the second part of the definition “an ingredient or ingredients of a food [...] which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required”, how should this(these) ingredient(s) be identified?

✓ **General rules**

1. The primary ingredient of an edible ice which is usually associated with its name by the consumer shall be the characterizing ingredient as defined in Annex IV Compositional Criteria of the Euroglaces Code for Edible Ices, Version 2013.
- 1.1. In case of a compound edible ice product, the decisive characterizing ingredient to define the primary ingredient shall relate exclusively to the edible ice component of that compound product.
2. For particularly complex edible ices, however, it is advisable to also make a case-by-case assessment for the identification of the primary ingredient(s) when the design of the front-of-pack label (images, claims, etc.) clearly identifies a primary ingredient(s) that could be of greater interest to the consumer and could determine her/his purchasing choice.

Denominations as listed in Code for Edible Ices, version 2013	Primary Ingredient (relating only to the edible ice component of the final product)	COMPOSITIONAL CRITERIA								
		MSNF	PROTEINS		EDIBLE FATS		FRUIT(S) or VEGETABLE(S)			
			Dairy	Non-Dairy	Dairy	Non-Dairy	Ordinary	Fruit(s) or Acid or Strong Flavour	Vegetable(s) listed in Annex II.2	Nuts & Nut Preparations
3.1. Water Ice	TASTE (*)									
3.2. Ice Cream	TASTE (*)		Optional	Optional	Dairy and/or non-dairy edible fats mandatory					
3.3. Milk Ice	MILK (all types of milk)	6.0% min.	Mandatory	Excluded	2.5% min.	Excluded				
3.4. Dairy Ice Cream	CREAM AND/OR BUTTEROIL		Mandatory	Excluded	5.0% min.	Excluded				
3.5. FF Fruit Ice	FRUIT AND/OR NUTS						15% min.	10% min. Fruit(s) listed in Annex I. a	-	5% min.
3.6. Sorbet	FRUIT AND/OR VEGETABLE/AND /OR NUTS						25% min.	15% min. Fruit(s) listed in Annex II.1. a	10% min.	7% min.

(*) However, when an ingredient or category of ingredients from a source which is not usually consumed as such is added in a small quantity for flavouring purposes (Regulation (EC) No 1334/2008), it cannot be considered a primary ingredient since its origin is not decisive for the consumer's purchasing decision.

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✓ **Specific cases**

In the case of water ice and ice cream, for which the Code for Edible Ices does not define characteristic compositional criteria, there are 3 options:

- [Option 1: the taste is likely to substantially affect the consumer’s purchasing decision and therefore the ingredient that gives the taste to the product is the primary ingredient except for flavourings \(see above \(*\)\)](#)

- Example: strawberry water ice → strawberry puree/pulp is the primary ingredient

- [Option 2: if the taste that is likely to substantially affect the consumer’s purchasing decision is a flavouring \(see above \(*\)\), there is no primary ingredient](#)

- Example: plain vanilla ice cream → there is no primary ingredient because there is no characterizing ingredient

- [Option 3: the ‘ingredient that represent more than 50%’ rule applies](#)

✓ **Concerning the reference to QUID**

“an ingredient or ingredients of a food [...] which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required”

It is Euroglaces understanding that this reference to the QUID should not be interpreted as meaning that an origin/provenance indication should be required for all ingredients for which a QUID declaration is required. In other words, the trap of ‘reverse logic’ should be avoided: it is not because ingredients are ‘Quidded’ in accordance with Art.22(1) of Regulation (EU) No 1169/2011 that origin labelling will by default become mandatory for these ‘Quidded’ ingredients.

Only in the case of ingredients that represent more than 50% of that food or that are usually associated with the name of the food by the consumer, origin labelling for such ingredients might become mandatory, where the country of origin or the place of provenance of the food is indicated (and it is different to that of these ingredients).

[Ingredients that are emphasized through words, pictures or graphics and for which a QUID declaration may be required, are not automatically primary ingredients unless they form more than 50% of the food or are usually associated with the name of the food by the consumer.](#)

- **Example:** hazelnut dairy ice cream with cherry sauce and chocolate pieces.

In this example, “cream and/or butteroil” is the only primary ingredient, in line with the table overview in Section III, b.

Although QUID could be provided for ‘hazelnut’, ‘cherry’, and ‘chocolate’, this voluntary extension of the name of the food should not automatically trigger mandatory origin labelling of these ingredients in case where the country of origin or place of provenance of the food is given and this is different from that of those ingredients.

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IV. Relevant definitions of the Regulation (EU) N° 1169/2011 on the provision of food information to consumers

- Article 2(2)(a)

(a) 'primary ingredient' means an ingredient or ingredients of a food that represent more than 50 % of that food or which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required;

- Article 18

The list of ingredients shall be headed or preceded by a suitable heading which consists of or includes the word 'ingredients'. It shall include all the ingredients of the food, in descending order of weight, as recorded at the time of their use in the manufacture of the food.

- Article 26(2)(a)

Indication of the country of origin or place of provenance shall be mandatory:

(a) where failure to indicate this might mislead the consumer as to the true country of origin or place of provenance of the food, in particular if the information accompanying the food or the label as a whole would otherwise imply that the food has a different country of origin or place of provenance. which ensure a level playing field for industry and improve consumers' understanding of the information related to the country of origin or place of provenance of a food.

- Article 26(3)

3. Where the country of origin or the place of provenance of a food is given and where it is not the same as that of its primary ingredient:

(a) the country of origin or place of provenance of the primary ingredient in question shall also be given; or
(b) the country of origin or place of provenance of the primary ingredient shall be indicated as being different to that of the food.

- Annex VII, Part A, 2

Part A – Specific Provisions Concerning the Indication of Ingredients by Descending Order of Weight

Category of ingredient	Provision concerning indication by weight
2. Ingredients used in concentrated or dehydrated form and reconstituted at the time of manufacture	May be listed in order of weight as recorded before their concentration or dehydration

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- Annex VII, Part E

Part E – Designation of Compound Ingredients

1. *A compound ingredient may be included in the list of ingredients, under its own designation in so far as this is laid down by law or established by custom, in terms of its overall weight, and immediately followed by a list of its ingredients.*
2. *Without prejudice to Article 21, the list of ingredients for compound ingredients shall not be compulsory:*
 - (a) *where the composition of the compound ingredient is defined in current Union provisions, and in so far as the compound ingredient constitutes less than 2% of the finished product; however, this provision shall not apply to food additives, subject to points (a) to (d) of Article 20;*
 - (b) *For compound ingredients consisting of mixtures of spices and/or herbs that constitute less than 2% of the finished product, with the exception of food additives, subject to points (a) to (d) of Article 20; or*
 - (c) *where the compound ingredient is a food for which a list of ingredients is not required under Union provisions.*

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