

Application for consultation to determine the status of a novel food, pursuant to Article 4(2) of the above Regulation

Maqui berries (fruit of the *Aristotelia chilensis* plant)

Recipient Member State: German Federal Office for Consumer Protection and Food Safety (BVL)

Justification:

In reply

A survey conducted among the Member States in 2010 found the following:

Import data were submitted, but these were insufficient to determine consumption to a significant degree, especially as the only use which could be demonstrated was for the colouring of wine. This does not constitute 'consumption to a significant degree'. In 2012, the Italian authorities stated that maqui berries were not considered as novel in food supplements. They were asked again in 2018 and confirmed their previous statement.

The following documents submitted by the applicant were then discussed:

1. Position of Professor Reinhold Carle, Universität Hohenheim of 12 September 2013

In the publication 'Maqui Berries for Colouring Wine (*Aristotelia maqui*.)' in the 'Bulletin of Miscellaneous Information' (Royal Garden, Kew), Vol. 1890, No. 38 (1890), pp.34-36 (Annex 5):

'In Chile, the fruits of the Maqui are eaten either fresh or preserved in different ways.' 'A curious industry has sprung up of late years in the collection and export to Europe of the berries for the purpose of colouring wine.'

This does not suggest that the product was being consumed in Europe to a significant degree. Apart from the reference to maqui berries being used for the colouring of wine, there is no evidence of their being used for nutritional purposes. The described use as a colour does not demonstrate significant use, according to the European Commission Information and Guidance document entitled 'Human Consumption to a Significant Degree'.

Historical import data from the 19th century (Annexes 5 und 6b) are also unsuitable as evidence of significant consumption of these berries as a food, because these data, too, only refer to use as a colour.

The statement in the product information on 'Maqui Select' (Annex 2) that maqui berries were imported into Europe before 1997 and therefore do not fall within the scope of the Novel Food Regulation, is insufficient. Although the submitted export data (Annex 4) show the import of significant quantities to Germany and the Netherlands between 1991 and 1997, there is no evidence of their use for human consumption.

The 'List of Approved Fruits and Vegetables' from the US Department of Agriculture (USDA) enclosed as Annex 3 is not relevant for proving consumption in the EU.

The aspects outlined in that report with regard to the health risks of the foodstuff in question

are irrelevant for the purposes of its novel food status.

The claim that there is no legal basis for differentiating between its use in food supplements and its use in other foodstuffs cannot be sustained -at least since the Novel Food Regulation (EU) 2015/2283 entered into force (see recital (13) and Article 3(2)(a)(x) of the Regulation). Even before then, it was recognised practice in all the Member States to differentiate between 'not novel' and 'novel, except in food supplements'.

2. The Italian list

The applicant subsequently sent a list from the Italian Health Ministry. However, all this provides is information about plants authorised in Italy for use as food supplements. We have checked with the Italian authorities and ascertained that the list says nothing about the novel food status of other foodstuffs. The classification 'not novel in food supplements (NFS)' is therefore being retained.

3. Publication by Brauch *et al.* in Food Chemistry 190 (2016) 308-316

The same sources are used as in the report by Professor Carle. The authors make the following statement about maqui berries:

'Its fresh consumption, juice and jam production as well as its use as a natural food colorant, especially for colouring wine since the end of the 19th century are well documented. "

We do not understand this, as the information on consumption as a fruit, in jam or in juice relates to its country of origin, Chile, but says nothing that can be directly applied to Europe.