

## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EEC) No 775/85**

**of 26 March 1985**

**amending Regulation (EEC) No 337/79 on the common organization of the market in wine**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the use of musts in grape-juice production helps to reduce expenditure on the distillation of wine surpluses; whereas the use of such musts could be boosted by an effective scheme to promote the consumption of grape juice; whereas, therefore, the aid provided for in Article 14a of Regulation (EEC) No 337/79 <sup>(4)</sup>, as last amended by Regulation (EEC) No 3685/84 <sup>(5)</sup>, should, for a number of wine years, be used partly to finance such schemes and, with a view to these schemes, be fixed at a level higher than that resulting from application of the said Article;

Whereas the vineyards in wine-growing zone A and those of the German part of wine-growing zone B are intended wholly for the production of quality wines produced in specified regions; whereas, however, some of the wine produced, in particular when certain yields per hectare are exceeded, may not be recognized as

quality wine and may be marketed as table wine; whereas, to prevent too large quantities of such wine being offered for intervention, thus increasing intervention expenditure to an excessive extent, it is necessary to limit the quantities eligible for the distillation measures provided for by Regulation (EEC) No 337/79 in these zones; whereas, however, provision should be made for possible adjustment in order to avoid serious market disturbance;

Whereas the structural surpluses which are currently a feature of the wine sector require that the Community's vine-growing potential be reduced; whereas the said reduction may be secured, albeit gradually, by restricting the exercise of the right to replant; whereas it is appropriate that the provisions governing the said measure be adopted in the foreseeable future;

Whereas, in order to enable the Council to take a decision on the measures to be adopted in the field of enrichment, it is necessary to be in possession of very thorough knowledge, going beyond that afforded by the studies already made of certain points, of all the scientific, technical and economic aspects of the problem; whereas the Commission should therefore make an exhaustive study of the question, followed by a report to the Council and suitable proposals;

Whereas the trend of the table wine market in recent years calls for measures to allow more direct control over production; whereas, furthermore, surpluses are absorbed primarily through compulsory distillation; whereas provision must be made for such distillation to be instituted once it is clear that the market is in a state of serious imbalance and whereas precise criteria must be defined for the assessment of such imbalance;

Whereas, because of the weather and the impact of structural measures, the trend of production may differ between the production regions of the Community; whereas, to take fair account of this, the total quantity of wine for compulsory distillation should be broken

<sup>(1)</sup> OJ No C 259, 27. 9. 1984, p. 5.

<sup>(2)</sup> OJ No C 72, 18. 3. 1985, p. 102.

<sup>(3)</sup> OJ No C 25, 28. 1. 1985, p. 18 and opinions delivered on 30 January 1985 (not yet published in the Official Journal).

<sup>(4)</sup> OJ No L 54, 5. 3. 1979, p. 1.

<sup>(5)</sup> OJ No L 341, 29. 12. 1984, p. 1.

down between the various vine-growing regions of the Community on the basis of the disparity between their respective levels of production for the year and a reference level calculated on the basis of previous years and regarded as compatible with normal consumption of table wine; whereas the reference level is at present 85 % of average production in the preceding three years;

Whereas it is incumbent upon each Member State to supervise and implement this measure; whereas therefore, for the measure to be effective, the vine-growing regions should be grouped by Member State;

Whereas it is fair to share out the obligations between producers on the basis of their yield per hectare and to ensure that producers with low yields are not penalized; whereas differences between production regions warrant the application of differing rates to producers in the various regions;

Whereas, likewise, wine production should not be encouraged in the absence of commercial outlets; whereas it therefore appears advisable to lower the buying-in price of wine delivered for compulsory distillation, as its present level seems sufficiently attractive, if not to encourage the creation of new vineyards, at least to enable old vineyards to survive in the absence of any sales possibilities;

Whereas the present arrangements allow Member States not to take over alcohol which results from distillation; whereas this possibility, if made use of in Member States in which the production of table wine is very substantial, runs the risk of preventing compulsory distillation from being applied; whereas it therefore appears necessary to restrict this possibility to those Member States in which the quantity of wine to be distilled is low;

Whereas, in order to avoid disproportionate administrative expenditure, it is advisable to provide for, in addition to the exemption for small producers, the possibility of exemption for producers in regions where the production of table wine is very low; whereas, to ensure proportionate allocation of advantages and disadvantages between those concerned, it is appropriate to provide that, in cases of exemption, the producers of these regions may not enjoy the advantage of optional distillation;

Whereas experience has demonstrated the advisability of pursuing measures to encourage the use of methods other than distillation for disposing of wine products;

Whereas the surveillance necessary for the correct application of measures provided for by the common organization of the market calls for accurate knowledge of the various aspects concerning holdings, in particular with regard to their vine-growing area; whereas to this end, it is appropriate to envisage the

adoption, in the immediately foreseeable future, of steps to set up a vineyard register;

Whereas, in order to ensure the harmonious transition from the old distillation arrangements to the new ones introduced by this Regulation, provision should be made for a procedure allowing the Commission to take the transitional measures necessary to overcome any difficulties which might jeopardize the execution of the distillation; whereas such measures may in no event call into question the essential elements of the new arrangements;

Whereas the application of the reduction of the buying-in price provided for in Article 14b of Regulation (EEC) No 337/79 for wine delivered for compulsory distillation during the first year of application risks jeopardizing the smooth functioning of matters and not attaining the quantitative result envisaged; whereas it appears appropriate, in these circumstances, not to apply the provisions of Article 14b to the compulsory distillation of the abovementioned year,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EEC) No 337/79 is hereby amended as follows:

1. The following paragraph 3a is added to Article 14a:

'3a. During the wine-growing years 1985/86 to 1989/90 a part, to be determined, of the aid referred to in the first indent of paragraph 1 shall be set aside for the organization of campaigns to promote the consumption of grape juice. The amount of the aid may, for the purposes of organizing such campaigns, be fixed at a higher level than that resulting from the application of paragraph 3.'

2. The following Article 15a is inserted after Article 15:

#### *Article 15a*

With effect from the 1988/89 wine-growing year, the quantity of table wine produced in wine-growing zone A and in the German part of wine-growing zone B which, for a given year, is eligible for distillation under this Regulation shall be restricted to 1 million hectolitres.

In years where, because of weather conditions or the market situation, this restriction is liable to cause serious disturbance of the market, the Council, acting by a qualified majority on a proposal from the Commission, shall make the appropriate adjustments.'

3. The following paragraph 3a is inserted in Article 30a :

'3a. Before 1 January 1986 the Council, acting by a qualified majority on a proposal from the Commission, shall adopt the provisions relating to those restrictions on the exercise of replanting rights which are necessary to adapt the vine-growing potential to market requirements.'

4. The following Article 33a is inserted after Article 33 :

*Article 33a*

1. The Commission shall make a thorough study of the possibilities for using concentrated grape must, whether rectified or not, and sugar for enrichment. The study shall cover in particular the oenological aspects of the various permitted methods, the economic aspects of the use of sucrose or concentrated grape must, whether rectified or not, and the methods for checking on such use.

2. In 1990 the Commission shall present to the Council a report on the conclusions of the study referred to in paragraph 1, together with any appropriate proposals. The Council shall then decide on the measures to be taken in the field of increasing the natural alcoholic strength by volume of the products referred to in Article 32 (1).

3. Implementation of the study referred to in paragraph 1 shall be financed by the Community. The appropriation relating to it shall be fixed under the budget procedure. The cost is estimated at 2 million ECU.'

5. Article 41 is replaced by the following :

*Article 41*

1. Where, in respect of a given wine-growing year, the market in table wine and wine suitable for yielding table wine is in a state of serious imbalance, compulsory distillation of table wine shall be decided upon.

The state of serious imbalance referred to in the first subparagraph shall be deemed to exist where :

- (a) availabilities recorded at the beginning of the year exceed the level of normal utilization by more than four months, or
- (b) production exceeds the level of normal utilization by more than 9 %, or
- (c) the weighted average of representative prices for all types of table wine remains at below 82 % of

the guide price from the beginning of a year for a period to be determined.

2. The Commission shall fix the quantities that are to be delivered for compulsory distillation to eliminate production surpluses and thus restore a normal market situation, in particular as regards the levels of foreseeable availabilities at the end of a year and prices.

3. The total quantity to be distilled, determined in accordance with paragraph 2, shall be shared between the different vine-growing regions of the Community, grouped together by Member State.

The quantity for distillation for each vine-growing region shall be proportional to the difference between :

- on the one hand, the production of table wine and of products prior to table wine in the production process to be determined, obtained in the region and in the year in question, and
- on the other hand, a uniform percentage of the average quantity of table wine and of products prior to table wine in the production process to be determined, obtained in the region in question over three consecutive reference wine-growing years.

Until the end of the 1989/90 wine-growing year :

- the uniform percentage shall be 85,
- the consecutive reference years shall be 1981/82, 1982/83 and 1983/84.

From 1990/91 onwards, the uniform percentage and consecutive reference years shall be determined by the Commission which shall fix :

- the uniform percentage on the basis of the quantities that must be distilled in accordance with paragraph 2 in order to eliminate the production surplus for the year in question,
- the consecutive reference years on the basis of the trend of production, and, in particular of the effects of the grubbing-up policy.

4. The quantity for distillation determined in accordance with paragraph 3 shall be shared between table wine producers in each vine-growing region.

For producers subject to compulsory distillation, the quantity for distillation shall be equal to a percentage to be determined of their production of table wine and of products prior to table wine in the production process to be determined, which appear in their production declarations.

This percentage :

- shall be obtained from a progressive scale based on the yield per hectare,
- may vary between regions according to yields obtained in the past,
- may be nil for producers whose yields per hectare are less than a level to be determined.

The quantity of table wine to be delivered for distillation by each producer shall be equal to that determined in accordance with the third subparagraph ; however, the producer may deduct from this quantity, in whole or in part, the quantity of table wine or wine suitable for yielding table wine delivered for distillation as referred to in Article 11.

5. Member States shall notify the Commission of the quantities of table wine produced in each vine-growing region, delimited in accordance with paragraph 9, classified according to yield grade. These data shall be compiled on the basis of the production declarations to which reference is made in Article 28.

These notifications shall form the basis for :

- (a) setting the total quantity for distillation in the Community ;
- (b) the sharing of this quantity between the vine-growing regions referred to in paragraph 3 ;
- (c) determination, in cooperation with the Member States concerned, of the percentage to be applied to the production of each producer subject to compulsory distillation in order to attain the distillation volume laid down for each region.

Subject to possible exceptions decided in accordance with the procedure laid down in Article 67, the quantities for compulsory distillation within the meaning of this Article shall be distilled before the end of the wine year during which compulsory distillation was decided.

Until the end of the 1989/90 wine year :

- the notifications referred to in the first subparagraph shall be made before 15 February,
- the decisions provided for in the second subparagraph shall be taken before 28 February,
- these dates may be amended by the Council, acting by a qualified majority on a proposal from the Commission, and, for the first year of implementation of compulsory distillation after 1 September 1985, in accordance with the procedure referred to in Article 67. In the latter case, extension may not exceed 30 days.

As from the 1990/91 wine year, the dates for the communications and decisions referred to in the

first and second subparagraphs shall be fixed in accordance with the procedure laid down in Article 67. These dates may not be later than 15 February and 28 February respectively.

6. The buying-in price for 1985/86, 1986/87 and 1987/88 of the table wines to be delivered for compulsory distillation shall be fixed according to the quantities to be distilled and shall be equal :

- where the total quantity for distillation is equal to or less than 10 million hectolitres, to 50 % of the guide price of each of the types of table wines,
- where the total quantity for distillation is more than 10 million hectolitres, to the percentage of the guide price of each of the types of table wines which results from the weighted average of the percentage referred to in the first indent, applied to the first 10 million hectolitres, and 40 % of the guide price of each of the types of table wines, applied to be quantities exceeding that level.

The buying-in price to be paid by the distiller to the producer for the quantities delivered for compulsory distillation beyond those delivered for preventive distillation may not be lower than the price referred to in the first subparagraph.

The buying-in prices referred to in the first and second subparagraphs shall also apply to wines in a close economic relationship with each of the types of table wines.

7. Under the distillation operation referred to in this Article, the distiller may :

- either receive aid in respect of the product to be distilled, provided that the product obtained from distillation has an alcoholic strength of at least 52 % vol.,
- or deliver the product obtained from distillation to the intervention agency, provided that it has an alcoholic strength of at least 92 % vol.

However :

- the Member States may stipulate that their intervention agencies will not buy in the product referred to in the second indent of the first subparagraph ; only those Member States whose overall volume of wine for compulsory distillation does not exceed a figure to be determined may avail themselves of this option,
- if the table wine has been processed into wine fortified for distillation before delivery for distillation, the aid referred to in the first indent of the first subparagraph shall be paid to the manufacturer of the wine fortified for distillation and the product of the distillation may not be delivered to the intervention agency.

A buying-in price shall be fixed for neutral alcohol having quality characteristics defined in accordance with paragraph 8.

The buying-in price of the other products of distillation which can be taken over by the intervention agency shall be fixed on the basis of the buying-in price referred to in the third subparagraph but varied to take account, in particular, of the costs necessarily entailed in processing the relevant products into neutral alcohol.

8. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article. These rules shall include :

- the conditions under which distillation is carried out,
- the criteria for determining the amount of aid which will enable the products obtained to be disposed of,
- the criteria for fixing the buying-in prices of the products of distillation which can be taken over by the intervention agencies,
- the characteristics which neutral alcohol must have.

9. The following shall be adopted in accordance with the procedure laid down in Article 67 :

- the methods of calculation to be used for applying paragraph 1,
- the definition of the weighting and the period referred to in paragraph 1 (c),
- the decision to carry out the distillation referred to in paragraph 1,
- the criteria for applying paragraph 2 and the total quantity to be distilled referred to in that paragraph,
- the criteria for delimiting vine-growing regions, grouped together by Member State, referred to in paragraph 3, and the delimitation of those regions,
- the fixing of the uniform percentage and the consecutive reference years, and the regional allocation of the quantities to be distilled, grouped together by Member State, referred to in paragraph 3,
- the progressive scale and the percentages referred to in paragraph 4,
- the prices and the amount of the aid referred to in paragraphs 6 and 7, and,
- other detailed rules for the application of this Article.

The same procedure shall be followed for the adoption of measures which, with a view to alleviating

the administrative burden arising from the application of this Article,

- shall provide for total or partial exemption for producers who, during the wine-growing year in question, have obtained or are to deliver a quantity not exceeding a level to be determined,
- may provide for exemption in regions whose table wine production represents a minimal proportion of the total table wine production of the Community, up to a maximum of 60 000 hectolitres per Member State.

In regions where such exemption is decided on, producers may not benefit from Articles 11, 12a and 15.

10. By way of derogation from the provisions of this Article, for the 1985/86 and 1986/87 wine years in Greece, compulsory distillation may be implemented in accordance with the special provisions taking account of the difficulties encountered in Greece as regards knowledge of yields per hectare. These provisions shall be adopted in accordance with the procedure referred to in Article 67.

The Council, acting by a qualified majority on a proposal from the Commission, may decide to extend this derogation should the difficulties persist after the 1986/87 wine year.

11. Before the end of the 1989/90 wine year, the Commission shall submit to the Council a report outlining, in particular, the effect of the structural measures applicable in the wine sector and, where appropriate, proposals to repeal or replace the provisions of this Article by other measures designed to maintain the balance of the wine market.'

6. In Article 41c :

- (a) the first subparagraph of paragraph 1 is replaced by the following :
  - '1. Measures to encourage the use of methods other than distillation for disposing of surpluses of products referred to in Article 1 (2) shall be applied until the end of the 1988/89 wine-growing year.'
- (b) in paragraph 4, '1984/85 wine-growing year' is replaced by '1988/89 wine-growing year.'

7. The following Article is inserted after Article 64 :

*Article 64a*

In order to create the necessary conditions for the full implementation of the measures laid down by this Regulation, the Council, acting by a qualified

majority on a proposal from the Commission, shall, before 1 October 1985, adopt the general rules establishing a Community vineyard register. These rules shall in particular deal with the objectives, the conditions and the time limits for the creation of the register and the details for financing it.

#### *Article 2*

If, during the first year in which this Regulation is applied, the changeover from the previous compulsory distillation arrangements to those laid down in this Regulation gives rise to difficulties likely to jeopardize such distillation, the necessary transitional measures shall be adopted in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79 to ensure that the distillation operations in question are actually carried out.

These measures can concern only the provisions of Article 41 of Regulation (EEC) No 337/79, as amended

by this Regulation, except for the provisions concerning:

- the quantities to be distilled,
- the prices to be paid for distilled wine,
- the percentage of 85 applicable in each production region,
- the reference years.

#### *Article 3*

By way of derogation from Article 14 (b) of Regulation (EEC) No 337/79, the reduction in the purchase price, referred to in that Article, shall not apply for the 1984/85 wine year, for the distillation referred to in Article 41 of the said Regulation.

#### *Article 4*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 September 1985, except for Article 3, which shall apply as from 1 September 1984.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 March 1985.

*For the Council*

*The President*

F. M. PANDOLFI

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