

**COUNCIL REGULATION (EEC) No 777/85**

of 26 March 1985

**on the granting, for the 1985/86 to 1989/90 wine years, of permanent abandonment premiums in respect of certain areas under vines**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 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 increasing imbalance on the market in wine and experience gained, in particular of the application of Council Regulation (EEC) No 456/80 of 18 February 1980 on the granting of temporary and permanent abandonment premiums in respect of certain areas under vines and of premiums for the renunciation of replanting <sup>(4)</sup>, as last amended by Regulation (EEC) No 1597/83 <sup>(5)</sup>, point to the necessity of intensifying efforts to reduce the Community's wine production potential; whereas it is essential, to attain the desired objective, that this reduction cover categories 2 and 3 as defined in Articles 29 and 29a of Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine <sup>(6)</sup>, as last amended by Regulation (EEC) No 775/85 <sup>(7)</sup>, and, with regard to the areas of category 1, those determined by the Member States on the basis of certain socio-structural features to be defined at Community level;

Whereas the abandonment of areas under vines should therefore be encouraged by the granting over the next five years of premiums, differentiated in amount according to the productivity of the area concerned, calcu-

lated to compensate for the cost of the grubbing operation, the loss of the right to replant and the loss of future income;

Whereas it is necessary to avoid the risk that a reduction in production determined by the permanent abandonment of certain areas might be compensated for by an increase in the productivity of the remaining areas of the holding; whereas to this end it is appropriate to provide for, by means of the necessary compensation, a limit on the exercise of the rights to replant, originating from the areas in question;

Whereas a reduction in the number of viticultural holdings will limit the dispersion of supply to the market and simplify market management; whereas an additional incentive should therefore be made available to growers who grub up all their vines;

Whereas, in order to prevent unjustifiable expenditure, a ban should be introduced on cumulation of these premiums with other premiums provided for by Community legislation;

Whereas, in order to permit proper management of this abandonment premium scheme, final dates should be set for the lodging of applications and conditions to be met by applicants should be laid down; whereas, in order to obtain lasting results, the recipients of the abandonment premium should be placed under an obligation not to increase their area under vines during the 16 following wine years;

Whereas the abandonment of vineyards by viticulturists who are members of cooperatives which jointly process the grapes harvested by their members might reduce the quantities of grapes delivered and thereby increase processing costs; whereas it is therefore fair to provide for compensation for any negative effects; whereas, bearing in mind the differences which exist in the wine structures within the Community and the present state of the Community budget, it is appropriate to envisage that the possible compensation scheme will be adopted by Member States;

Whereas the permanent abandonment premium serves the interests of the Community and is designed to achieve the objectives laid down in Article 39 (1) (a) of the Treaty; whereas it constitutes a common measure

<sup>(1)</sup> OJ No C 259, 27. 9. 1984, p. 10.

<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 opinion delivered on 30 January 1985 (not yet published in the Official Journal).

<sup>(4)</sup> OJ No L 57, 29. 2. 1980, p. 6.

<sup>(5)</sup> OJ No L 163, 22. 6. 1983, p. 52.

<sup>(6)</sup> OJ No L 54, 5. 3. 1979, p. 1.

<sup>(7)</sup> See page 1 of this Official Journal.

for the purposes of Article 6 (1) of Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy<sup>(1)</sup>, as last amended by Regulation (EEC) No 929/79<sup>(2)</sup>;

Whereas, in order to ensure maximum effectiveness of the proposed measure, it is necessary to fix time limits for the payment of premiums to those eligible, to provide for the possibility of paying advances subject to security and payment by EAGGF to Member States of advances corresponding to Community participation, while ensuring that the payment of premiums and the final EAGGF contribution are made subject to the carrying out of grubbing-up under the required conditions,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. Vine growers cultivating areas under vines:

(a) for the production of:

- table wine,
- table grapes,
- grapes for drying,
- wine for the production of a wine spirit of designated origin in the Charentes region,

or

(b) used as root-stock nurseries planted with root-stock varieties listed in the classification of vine varieties,

shall, upon application and subject to the conditions laid down in this Regulation, qualify during the wine years 1985/86 to 1989/90 for a premium for the permanent abandonment of vine growing, hereinafter referred to as 'permanent abandonment premium'.

As regards areas for the production of table wines, areas classified in accordance with Articles 29 and 29a of Regulation (EEC) No 337/79 as categories 2 and 3 shall be eligible for the premium. However, Member States may also grant the premium for areas in category 1 in regions where socio-structural conditions so warrant.

The criteria and conditions to which application by the Member States of the second subparagraph is subject shall be determined in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79.

<sup>(1)</sup> OJ No L 94, 28. 4. 1970, p. 10.

<sup>(2)</sup> OJ No L 117, 12. 5. 1979, p. 4.

2. The grant of the permanent abandonment premium shall entail for the cultivator:

- (a) forfeiture of the right to replant the area for which the premium is granted;
- (b) an abatement of the right to replant originating from any grubbing-up carried out on the residual vine-growing area on the holding after the grant of the premium and exercised before the end of the 1994/95 wine year. This abatement shall be:
  - 20 % in the case of the exercise of the said right for category 2,
  - 40 % in the case of the exercise of the said right for category 3;
- (c) compensation for the abatement referred to under (b) equal to 900 ECU per hectare of vineyard grubbed-up. This compensation shall be paid, at the request of the holder of the right to replant, by the Member State concerned when the said right is exercised.

3. Paragraphs 2 (b) and (c) and Article 9 (3) may be amended by the Council acting by a qualified majority on a proposal from the Commission.

#### Article 2

1. The amount of the premium per hectare is hereby fixed as follows:

- (a) for areas of no less than 10 ares but no more than 25 ares planted with wine-grape varieties and constituting the entire vineyard area of the holding concerned: 3 000 ECU;
- (b) for areas of more than 25 ares planted with wine-grape varieties:
  - 1 000 ECU if the average yield per hectare of the said areas is no more than 20 hl,
  - 3 500 ECU if the average yield per hectare of the said areas is more than 20 hl but no more than 50 hl,
  - 5 000 ECU if the average yield per hectare of the said areas is more than 50 hl but no more than 90 hl,
  - 6 500 ECU if the yield per hectare of the said areas is more than 90 hl but no more than 130 hl,
  - 8 000 ECU if the yield per hectare of the said areas is more than 130 hl but no more than 160 hl,
  - 8 500 ECU if the yield per hectare of the said areas is more than 160 hl;

(c) for areas planted with varieties classified in the administrative unit concerned either as table grapes or as both table and wine grapes :

- 9 000 ECU in the case of large-grape vine varieties, trained by the pergola method, contained in a list to be drawn up,
- 7 000 ECU in the case of vine varieties other than those referred to in the first indent trained by the pergola method,
- 6 000 ECU in the case of the vine varieties referred to in the first indent trained by a method other than the pergola method,
- 5 000 ECU in the case of vine varieties other than those referred to in the first indent trained by a method other than the pergola method ;

(d) for the areas for the production of wine for making wine spirit of designated origin in the Charentes region : 6 000 ECU ;

(e) for areas planted with vine varieties classified in the administrative unit concerned as dried-grape varieties or as both dried-grape and other varieties : 6 000 ECU ;

(f) for areas used as root-stock nurseries : 5 000 ECU.

2. The amounts specified in paragraph 1, with the exception of the amount referred to in paragraph 1 (a), shall be increased by 500 ECU per hectare if the areas concerned constitute the entire vineyard area cultivated by the applicant.

3. The yield per hectare of the grubbed-up areas referred to in paragraph 1 (b) shall be calculated on the basis of the average yield declared for the recipient's holding and of an on-the-spot assessment, carried out by the competent body of the Member State concerned prior to grubbing-up of the productive capacity of the wine-growing area to be grubbed up.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79.

#### Article 3

1. The following shall not qualify for the permanent abandonment premium :

- (a) areas under vines located on the same holding which total 25 ares or less, without prejudice to Article 2 (1) (a) ;
- (b) areas under vines known to have been in infringement of Community or national provisions ;

(c) areas under vines which are no longer tended ;

(d) areas on which vines were planted after the entry into force of this Regulation.

2. Vine-growers who have received the premium referred to in Article 1 may not subsequently receive the aid referred to in the first, second and third indents of Article 13 of Council Regulation (EEC) No 458/80 of 18 February 1980 on collective projects for the restructuring of vineyards<sup>(1)</sup>, as last amended by Regulation (EEC) No 1598/83<sup>(2)</sup>.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79.

#### Article 4

1. Applications for premiums must be submitted to the departments designated by the Member States before 31 December of each wine year specified in Article 1 (1).

Applications relating to areas under wine grapes shall be accompanied by an official declaration stating the yield per hectare calculated in accordance with Article 2 (3).

2. The grant of the premium shall be subject to a written declaration in which the applicant undertakes :

- by 15 May of the year following that in which the application is submitted, to grub-up or have grubbed-up the vines on the areas for which the premium has been requested,
- not to plant, on the holding to which the area for which the premium was received belongs, new vines within the meaning of Annex IVa (e) to Regulation (EEC) No 337/79 for 16 wine years following that in which the vines are grubbed up,
- to declare each year during that period, where appropriate at the same time as his harvest, the area under vines which is in production and the area which is not yet in production.

3. The grant of the premium shall also be subject to the applicant :

- being entitled, in accordance with national laws, and when the application is submitted, to continue to cultivate the land in question during the period referred to in the second indent of paragraph 2,

<sup>(1)</sup> OJ No L 57, 29. 2. 1980, p. 27.

<sup>(2)</sup> OJ No L 163, 22. 6. 1983, p. 53.

- producing, if he does not fulfil the condition referred to in the first indent, a written undertaking by the owner of the land that he will guarantee that the obligations referred to in paragraph 2 are complied with or that he will comply with them personally.

If, after the grant of the premium and in the course of the period referred to in the second indent of paragraph 2, all or part of the holding should pass to another party, the recipient of the premium or his assignees shall remain responsible for the performance by the successor of the undertaking entered into by the recipient, unless:

- the successor enters into such an undertaking on his own account for the remainder of the period, or
- the owner has given the undertaking provided for in the second indent of the first subparagraph.

4. Member States may decide to bring forward the dates referred to in the first subparagraph of paragraph 1 and the first indent of paragraph 2.

#### *Article 5*

1. For the grant of the permanent abandonment premium, mixed cultivation areas shall be expressed as specialized cultivation areas by using the customary conversion factor for the vine-growing area concerned.

2. The amount of the permanent abandonment premium shall be paid no later than at the end of the calendar year following that in which the application for a premium was submitted and provided that the applicant has furnished proof that grubbing-up has in fact taken place.

However, Member States may provide:

- that, for the 1985/86 and 1986/87 marketing years, the amount of the premium shall be paid at the latest at the end of the wine year following that during which the premium has been applied for,
  - for advance payment of the premium by the constitution of an appropriate security.
3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79.

#### *Article 6*

1. Member States may provide that the premiums referred to in Article 2 (1) for vine-growers who are members of a wine cooperative or other association of vine-growers shall be reduced by an amount not exceeding 15 %.

In such case, the sums corresponding to this reduction shall be paid to the cooperatives or associations in question.

2. Without prejudice to paragraph 1, Member States may provide for measures applicable until the end of the 1990/91 wine year comprising national compensation for wine cooperatives and other associations of vine-growers who furnish proof that:

- they have had to reduce their activity as a result of the lower level of deliveries from their members following the granting of the permanent abandonment premium,
- the area cultivated by their members has been reduced by at least 10 % compared with the situation during the 1984/85 wine year.

3. Member States shall inform the Commission of any provisions they may adopt pursuant to this Article.

#### *Article 7*

The Council, acting by a qualified majority on a proposal from the Commission, may decide to alter:

- the amount of the premium,
- the date given in Article 4 (1).

By the same procedure, the Council may provide for derogations from the date laid down in the first indent of Article 4 (2).

#### *Article 8*

1. Member States shall verify that the undertakings referred to in Article 4 (2) and (3) are being respected.

2. Member States shall inform the Commission of the results of this verification.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 67 of Regulation (EEC) No 337/79.

#### *Article 9*

1. The measures provided for in Article 1 (1) shall constitute a common measure within the meaning of Article 6 (1) of Regulation (EEC) No 729/70.

2. The common measure referred to in paragraph 1 shall end with the 1989/90 wine year.

3. The compensation referred to in Article 1 (2) (c) shall be a contribution intended to regularize the agricultural market within the meaning of Article 1 (2) of Regulation (EEC) No 729/70.

This compensation shall be financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund up to 90 %.

#### *Article 10*

1. The estimated cost of the common measure to the Guidance Section of the European Agricultural Guidance and Guarantee Fund amounts to 644 million ECU.

2. Article 6 (5) of Regulation (EEC) No 729/70 shall apply to this Regulation.

#### Article 11

1. The expenditure incurred by the Member States in respect of the common measure referred to in Article 9 shall be eligible for financing by the Guidance Section of the European Agricultural Guidance and Guarantee Fund.

2. The Guidance Section of the European Agricultural Guidance and Guarantee Fund shall provide 50 % of the eligible expenditure.

3. The Guidance Section of the EAGGF shall pay to the Member States an advance of up to the amount provided for in paragraph 2, on the basis of notification of:

- the areas for which applications for the granting of the permanent abandonment premium have been submitted before the deadline established in accordance with Article 4,
- an undertaking to pay the appropriations received from the EAGGF Guidance Section, before the end of the same year, to beneficiaries who fulfil the conditions laid down in Article 4 (2).

#### Article 12

1. Applications for a contribution from the EAGGF Guidance Section shall be submitted by the Member States before 1 May of each year.

2. The Commission shall take a decision on these applications in accordance with the procedure laid down in Article 7 (1) of Regulation (EEC) No 729/70.

#### Article 13

1. Save where the first indent of the second subparagraph of Article 5 (2) is applied, the amount due by the EAGGF Guidance Section to Member States shall be fixed definitively after the submission, before 1 April of each year, of a record of the permanent abandonment premiums paid to beneficiaries during the preceding year.

2. Any advances which are not spent during the year for which they were received shall be deducted from the sums to be paid for the following year.

3. The following shall be adopted pursuant to the procedure provided for in Article 13 of Regulation (EEC) No 729/70:

- the detailed rules for fixing the amount due by the EAGGF Guidance Section to Member States in

cases where the first indent of the second subparagraph of Article 5 (2) is applied,

- the detailed rules for applying Articles 11, 12 and this Article.

#### Article 14

1. Without prejudice to Article 8 of Regulation (EEC) No 729/70, the Member States shall, in accordance with their national laws, regulations and administrative provisions, take the necessary measures to recover the amounts paid in cases where the undertakings referred to in Article 4 are not respected.

They shall inform the Commission of measures taken for this purpose and, in particular, shall periodically notify it of the state of administrative and judicial procedures relating thereto.

2. The sums recovered shall be paid to the paying authorities or departments and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund in proportion to Community financing.

3. The financial consequences of failure to recover amounts paid out shall be borne by the Community in proportion to Community financing.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

#### Article 15

The Member States shall inform the Commission, as part of the communication referred to in Article 30c (1) of Regulation (EEC) No 337/79, of the areas of vines which have been permanently abandoned in return for the corresponding premium during the wine years referred to in Article 1 (1).

The Commission shall take account of this information in the report referred to in Article 30c (2) of the said Regulation.

#### Article 16

This Regulation shall not impede the granting of aid provided for by national regulations designed to achieve objectives similar to those sought by this Regulation, subject to an examination on the basis of Articles 92, 93 and 94 of the Treaty.

#### Article 17

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

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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