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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2389/89

of 24 July 1989

on general rules for the classification of vine varieties

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organization of the market in wine<sup>(1)</sup>, as last amended by Regulation (EEC) No 1236/89<sup>(2)</sup>, and in particular Article 13 (1) thereof,

Having regard to the proposal from the Commission,

Whereas, following a number of successive consolidations of the Community rules on wine, in the interests of clarity Council Regulation (EEC) No 347/79 of 5 February 1979 on general rules for the classification of vine varieties<sup>(3)</sup>, as last amended by Regulation (EEC) No 3805/85<sup>(4)</sup>, should be consolidated by amending the references contained therein;

Whereas Article 13 (1) of Regulation (EEC) No 822/87 provides for the Council to adopt general rules for the classification of vine varieties approved for cultivation in the Community; whereas these rules must, in particular, provide a classification of such vine varieties, by administrative units or parts thereof, into recommended vine varieties, authorized vine varieties and temporarily authorized vine varieties;

Whereas such classification is particularly useful in directing Community wine growers towards high-quality production by guiding their choice of varieties to plant; whereas the classification of wine varieties according to the quality of wine produced promotes the planting of varieties which give wine recognized to be of good quality and for which market demand is steady or expanding; whereas in this way a classification of vine varieties helps in the long run to prevent structural surpluses on the wine market; whereas the methods for making use of the grapes harvested from varieties to be classified may be defined on the basis of the category of the product obtained therefrom, such as table

wine, quality wine produced in specified regions, including quality sparkling wine produced in specified regions, quality liqueur wine produced in specified regions and quality semi-sparkling wine produced in specified regions and sparkling wine, quality sparkling wine, liqueur wine, semi-sparkling wine, wine spirit, grape juice and dried grapes;

Whereas, in classifying the varieties of vine, a distinction should be made between the uses to which the grapes obtained from them are put; whereas, in classifying administrative units, account should be taken of any special production conditions;

Whereas, however, the fact that grapes of a vine variety can also be used for purposes other than those indicated in the classification of the vine variety from which they originate, and in particular that grapes of a table variety can be used for wine making, should not prevent that vine variety from being classified according to its main use;

Whereas identification of the vine varieties cultivated in the Community is essential for checking that Community and national provisions concerning the cultivation of vine varieties are complied with; whereas for that reason the classification may contain only those vine varieties of which the propagating material is accepted in at least one Member State, in accordance with Community provisions, for certification or control as standard propagating material;

Whereas, among the wine grape varieties cultivated at present in the Community for the production of wine intended for direct human consumption, the vine varieties derived from interspecific crossings have not given complete satisfaction; whereas, therefore, they should not be classified as being recommended; whereas it is not justifiable to exclude *a priori* from classification among the recommended varieties wine grape varieties which may be obtained from interspecific crossings after 19 July 1970 and which might be found to be satisfactory for cultivation; whereas, however, no distinction need be made with regard to stock origins if the varieties of wine grapes are to be classified as authorized or temporarily authorized;

Whereas, since table grapes may also be used for wine making, the classification should be extended to cover the

(1) OJ No L 84, 27. 3. 1987, p. 1.

(2) OJ No L 128, 11. 5. 1989, p. 31.

(3) OJ No L 54, 5. 3. 1979, p. 75.

(4) OJ No L 367, 31. 12. 1985, p. 39.

vine varieties which come within the common quality standards for table grapes laid down in Commission Regulation No 58 laying down common quality standards for certain products listed in Annex I B to Regulation No 23 on the progressive establishment of a common organization of the market in fruit and vegetables <sup>(1)</sup>, as last amended by Regulation (EEC) No 920/89 <sup>(2)</sup>; whereas the suitability of those varieties for their normal use is a determining factor in their classification;

Whereas, since different names are used to describe a single vine variety, it is appropriate to establish within the classification a list of synonyms known to be used in the trade; whereas, moreover, a list of homonyms may be useful where a single term is used to cover several vine varieties;

Whereas experience has shown the need to make provision for amendment of the classification of vine varieties in order to add a vine variety to the category of recommended, authorized or temporarily authorized varieties; whereas, in the event of such an addition to the classification, it may be necessary, particularly in the case of a new variety, to determine the suitability of the variety for cultivation on the basis of information obtained by the Member State concerned from cultivation trials; whereas it has also proved necessary to provide for the possibility of downgrading vine varieties whose cultivation is not entirely satisfactory; whereas the admission of vine varieties which were not listed in the classification on 31 May 1974 to the category of authorized vine varieties should be granted only on a provisional basis after examination of their cultivation suitability and for an observation period of five years, at the end of which period a final decision should be taken on the variety in question;

Whereas it is necessary to specify the conditions under which a variety listed in the category of authorized vine varieties can be upgraded to the category of recommended vine varieties as well as the conditions under which a variety can be downgraded to a lower category;

Whereas no examination of cultivation suitability is necessary in the case of a vine variety classified as an authorized vine variety being upgraded to the category of recommended vine varieties in the same administrative unit, since the cultivation suitability is already known from experience and from information obtained by the Member State in question;

Whereas the inclusion of root stock varieties in the classification is desirable for reasons of control; whereas, in view of their limited number, these varieties and the grape varieties for special uses may be classified on a Community-wide basis,

HAS ADOPTED THIS REGULATION:

#### Article 1

The classification of vine varieties shall include all vine varieties of the genus *Vitis*, including those derived from

interspecific crossings, which are authorized for cultivation in the Community and intended for the production of grapes or of vegetative vine propagating material.

#### Article 2

1. Vine varieties shall be classified according to the uses to which the grapes obtained from them are normally put.
2. For the purposes of this Regulation:
  - (a) 'wine grape variety' means a vine variety normally cultivated for the production of fresh grapes for making wine for direct human consumption;
  - (b) 'table grape variety' means a vine variety which comes within the common quality standards for table grapes adopted under Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables <sup>(3)</sup>, as last amended by Regulation (EEC) No 1119/89 <sup>(4)</sup>, normally cultivated for the production of grapes for consumption when fresh;
  - (c) 'grape variety for special use' means a vine variety normally cultivated for purposes other than those referred to under (a) and (b), such as:
    - the preparation of potable wine spirits,
    - the preparation of grape juice,
    - the production of grapes normally used in the canning industry,
    - the production of grapes for drying;
  - (d) 'root stock variety' means a vine variety cultivated for the production of vegetative vine propagating material and providing that part of the plant which is below ground.

#### Article 3

1. Wine grape varieties and table-grape varieties shall be classified for each of the following administrative units or parts thereof:
  - the Regierungsbezirk in Germany,
  - the department in France,
  - the province in Italy,
  - the nomos in Greece,
  - the province and the region in Spain,
  - the region in Portugal,
  - the entire national territory in the other Member States.

<sup>(1)</sup> OJ No 56, 7. 7. 1962, p. 1606/62.

<sup>(2)</sup> OJ No L 97, 11. 4. 1989, p. 19.

<sup>(3)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(4)</sup> OJ No L 118, 29. 4. 1989, p. 12.

2. Grape varieties for special use and root stock varieties shall be classified on a Community-wide basis. However, some or all of these varieties may be classified, at the request of a Member State, for one or more administrative units of that Member State.

#### Article 4

1. One and the same wine grape variety may be classified differently in different administrative units or parts thereof.

2. One and the same variety may, exceptionally, be classified as both a table grape variety and a wine grape variety:

3. One and the same variety may be classified differently according to whether it is used for the making of:

- table wine,
- quality wine produced in specified regions, including quality sparkling wine produced in specified regions, quality liqueur wine produced in specified regions and quality semi-sparkling wine produced in specified regions,
- sparkling wine, quality sparkling wine, liqueur wine or semi-sparkling wine, other than those referred to in the second indent,
- potable wine spirits,
- grape juice,
- dried grapes.

#### Article 5

1. For each of the administrative units or parts thereof or, as appropriate, on a Community-wide basis, vine varieties shall be listed under one of the following categories: recommended vine varieties, authorized vine varieties and temporarily authorized vine varieties.

2. Vine varieties shall be included in the classification only if their propagating material is accepted for certification or control as standard propagating material in at least one Member State, in accordance with Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine <sup>(1)</sup>.

#### Article 6

1. With regard to wine grape varieties:

- (a) recommended vine varieties shall include the varieties which
- are already cultivated in the Community and which belong to the species *Vitis vinifera* L, or

<sup>(1)</sup> OJ No L 93, 17. 4. 1968, p. 15.

— are obtained from interspecific crossings the cultivation suitability of which is recognized, after 19 July 1970, as being satisfactory in accordance with Article 12,

and which normally provide wines recognized to be of good quality;

- (b) authorized-vine varieties shall include the varieties which normally provide sound and marketable wine of a quality which, while of an acceptable standard, is lower than that of the wine referred to under (a);
- (c) temporarily authorized vine varieties shall include the varieties:
- which do not meet the criteria stated under (a) and (b) but which nevertheless are of some economic importance to the administrative unit or part thereof concerned, or
  - which present certain shortcomings in cultivation.

2. Quality shall be assessed, where appropriate, on the results of tests as to the cultivation suitability of the vine varieties in question, together with the results of analytical and organoleptic tests of the wine concerned.

#### Article 7

With regard to table grape varieties:

- (a) recommended vine varieties shall include the varieties cultivated for the production of table grapes for which there is considerable market demand;
- (b) authorized vine varieties shall include the varieties:
- providing grapes of a quality which, while of an acceptable standard, is lower than that of the grapes referred to under (a), or
  - which present certain shortcomings in cultivation;
- (c) temporarily authorized vine varieties shall include the varieties:
- yielding grapes which should cease to be put on the market because of their poor quality, or
  - which present serious shortcomings in cultivation.

#### Article 8

1. With regard to the grape varieties for special uses:

- (a) recommended vine varieties shall include the varieties belonging to the species *Vitis vinifera* L or derived from interspecific crossings, if those vine varieties are normally well suited to the uses in question;
- (b) authorized vine varieties shall include the varieties:
- yielding products the quality of which, while of an acceptable standard, is lower than that of the products obtained from the vine varieties referred to under (a), or

- yielding grapes which are less suitable for the uses in question than the vine varieties referred to under (a);
- (c) temporarily authorized vine varieties shall include the varieties:
- which do not conform to the criteria stated in (a) and (b) but which nevertheless are of some economic importance to the Community as a whole or to the administrative unit or units concerned, or
  - which present certain shortcomings in cultivation.

2. Quality shall be assessed, where appropriate, on the results of tests as to the cultivation suitability of the vine varieties in question, together with the results of analytical and organoleptic tests of the finished products concerned.

#### Article 9

With regard to root stock varieties:

- (a) recommended vine varieties shall include the varieties cultivated for the purpose of obtaining vegetative vine propagating material which has been proved by experience to be satisfactory for cultivation;
- (b) temporarily authorized vine varieties shall include the varieties which have been found to be unsatisfactory for cultivation.

#### Article 10

1. Without prejudice to Article 5d (3) of Directive 68/193/EEC, a list of synonyms of the vine varieties appearing in the classification shall be included in the classification if such synonyms are:

- (a) used in the trade to designate the wines produced from the vine varieties in question, and
- (b) sufficiently well known.

2. A list of homonyms of the vine varieties referred to in paragraph 1 may also be included.

#### Article 11

1. Vine varieties not listed in the classification for an administrative unit or part thereof or, where appropriate, for the Community as a whole may be added:

- (a) to the categories of recommended or authorized vine varieties:
- as regards wine grape varieties and table grape varieties, only on condition that the variety has been included for at least five years in the classification for an administrative unit or part thereof immediately bordering on the administrative unit or part thereof for which the inclusion in the classification is under consideration,

- as regards root stock varieties, only on condition that the cultivation suitability of the variety has been examined and that it has been found to be satisfactory;

- (b) to the category of authorized vine varieties only on a provisional basis if the cultivation suitability of the variety in question has been examined and found to be satisfactory, but no final assessment of the classification of the vine variety in question can yet be made on the basis of the results of the examination.

2. The category of a vine variety for the same administrative unit or part thereof or, where appropriate, for the Community as a whole may be altered only:

- (a) by upgrading to the category of recommended vine varieties as regards:
- a variety appearing, on 31 May 1974, in the category of authorized vine varieties for the administrative unit or part thereof for which the addition is requested or, where appropriate, for the Community as a whole,
  - a variety added to the classification after 31 May 1974 and which has been listed for at least five years in the category of authorized vine varieties for the administrative unit or part thereof for which the addition is requested or, where appropriate, for the Community as a whole;
- (b) by downgrading to a lower category if:
- experience has shown that the requirements for the category in which the variety in question is listed are not fulfilled, or
  - the quality of the product which it yields renders it necessary, or
  - the area on which the vine variety in question is grown is very small and continuing to diminish.

3. A vine variety shall be eliminated from the classification if its cultivation suitability is judged unsatisfactory.

4. In the case referred to in paragraph 1 (b), the classification shall indicate that the addition is provisional. Between five and seven years after the provisional addition of the variety in the category of authorized vine varieties, it shall be decided on the basis of experience and taking account of the cultivation suitability trials carried out pursuant to Article 12, whether the variety in question:

- should remain permanently in the category of authorized vine varieties,
- should be inserted in the category of recommended vine varieties,
- should be inserted in the category of temporarily authorized vine varieties, or
- should be eliminated from the classification.

If after seven years no decision has been taken, the variety in question shall be considered to have been eliminated from the classification.

5. An examination as to cultivation suitability shall not be necessary for the addition of an authorized vine variety to the category of recommended vine varieties for the same administrative unit or part thereof or, where appropriate, for the Community as a whole, provided that the cultivation suitability can be demonstrated in an appropriate manner.

6. As a result of the downgrading of a variety to the category of temporarily authorized vine varieties, the variety in question may, from the date on which the downgrading takes effect, no longer be planted, grafted or double-grafted.

7. Detailed rules for the application of this Article, in particular the decisions referred to in the first subparagraph of paragraph 4, shall be adopted in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

#### Article 12

1. The cultivation suitability of a vine variety shall be determined on the basis of the information obtained by the Member States concerned from the examination of cultivation trials carried out in the administrative units or parts thereof concerned, in adjacent administrative units or, as the case may be, on a Community-wide basis.

The cultivation suitability of a vine variety may not be recognized as being satisfactory unless, in comparison with the other vine varieties listed in the classification for at least one administrative unit or part thereof, its overall quality characteristics constitute a distinct improvement with regard to cultivation or to the use of the grapes or propagating material obtained from it.

2. After consultation with the Management Committee for Wine, the Commission may ask the Member State concerned to carry out a further examination as to the cultivation suitability of the vine variety in question.

3. The determination of cultivation suitability referred to in paragraph 1 shall be effected in accordance with the procedure laid down in Article 83 of Regulation (EEC) No 822/87.

Detailed rules for the application of this Article, and in particular measures for testing cultivation suitability, shall be adopted in accordance with the same procedure.

#### Article 13

1. Planting, even for the purpose of replacing failures, of field grafting and double-grafting:

- of vine varieties not listed in the classification, or
- of temporarily authorized vine varieties,

shall be prohibited.

2. Member States may, however, permit derogations from the provisions of the first indent of paragraph 1 for the following purposes:

- cultivation suitability trials of a vine variety which is not listed in the classification for the administrative unit or part thereof concerned or for the Community as a whole,
- scientific research,
- selection of crossing experiments, and
- production of vegetative vine propagating material intended exclusively for export to non-member countries, on condition that there is suitable control over production.

The Member States concerned shall communicate to the Commission:

- (a) the list of vine varieties to which the fourth indent of the first subparagraph relates and
- (b) the provisions they are applying to ensure control over such production.

They shall inform the Commission before 1 October of each year of the alterations to be made to the said list.

3. If a Member State permits the derogations provided for in paragraph 2 that State shall carry out a systematic inspection each year of the vines which have been authorized for planting and shall ensure that any distribution of propagation material is limited to the purposes, referred to above. Individual cultivation contracts shall be concluded between the authorities designated by the Member States and any natural or legal person or group of persons intending to cultivate a vine variety which is not included in the classifications for the administrative unit or part thereof concerned, or for the Community as a whole.

4. Products derived from a vine variety undergoing cultivation suitability trials, scientific research or selection or crossing experiments, as referred to in paragraph 2, shall be treated as products obtained from authorized vine varieties.

#### Article 14

1. Regulation (EEC) No 347/79 is hereby repealed.

2. References to the Regulation repealed under paragraph 1 shall be construed as references to this Regulation.

#### Article 15

This Regulation shall enter into force on 1 September 1989.

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

Done at Brussels, 24 July 1989.

*For the Council*  
*The President*  
H. NALLET

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