

COMMISSION REGULATION (EEC) No 3302/90
of 15 November 1990
laying down detailed rules on the transfer of rights to replant vines

THE COMMISSION 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 ⁽¹⁾, as last amended by Regulation (EEC) No 1325/90 ⁽²⁾, and in particular Article 7 (6) thereof,

Whereas the Council has provided for the extension of the possibility of transferring replanting rights between holdings to areas intended for the production of table wine, table grapes or the cultivation of mother plantations, in order to prevent the ban on new planting combined with the restriction on the right to replant being an obstacle to the adaptation of wine growing to trends in demand;

Whereas the possibility of transfers should be introduced with care and monitoring to assess their justification, prevent fraud and guarantee their proper operation; whereas the introduction and use of the vineyard register established by Council Regulation (EEC) No 2392/86 ⁽³⁾ should guarantee an effective monitoring of the transfers;

Whereas it is necessary to be able to monitor the development of production potential on each holding; whereas entry of the transfers in the vineyard register will guarantee that it is up to date and effective; whereas official proof of acquisition must permit checks on conformity with the information in the vineyard register; whereas the acquisition of a replanting right by transfer is, for the acquirer, equivalent to the acquisition of a new planting right and whereas its validity is restricted to the period provided for the latter, as given in Article 8 (3) of Regulation (EEC) No 822/87;

Whereas implementation must be adapted to the specific nature of each wine-growing region; whereas the volume of transfers should be restricted to a rate lower than the normal rate of renewal of wine production in order not to create an excessively rapid and destabilizing increase in wine growing in certain regions; whereas the transfers must be authorized on the basis of the allocation criteria in accordance with the objectives in question; whereas potential applicants must be informed in advance of the relevant criteria and priorities;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down the conditions and detailed rules for the transfer of rights to replant vines between vineyards to areas intended for the production of table wine, table grapes and the cultivation of mother plantations as provided for in the second indent of the second subparagraph of Article 7 (2) of Regulation (EEC) No 822/87.

2. For the purposes of this Regulation:

- 'transferor' means the person offering replanting rights,
- 'applicant' means the person wishing to obtain such rights,
- 'acquirer' means the applicant authorized to carry out the transaction enabling him to acquire rights by transfer,
- 'rights in hand' means replanting rights resulting from a previous grubbing operation or new planting rights which can be used immediately by the grower concerned,
- "'terroir" with a given varietal potential' means the natural environmental unit, characterized by geomorphological, pedological and climatic data, which is classified by varietal suitability.

TITLE I

General rules

Article 2

1. For each transfer application, existence of the right which is the subject of the transfer application must be certified by the competent authorities on the basis of information concerning all the replanting rights for the holding of the transferor. It must be possible from such information to trace the parcel history and the grubbing and replanting that have been carried out on the said

⁽¹⁾ OJ No L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ No L 132, 23. 5. 1990, p. 19.

⁽³⁾ OJ No L 208, 31. 7. 1986, p. 1.

holding over a period of at least eight years. It must be possible to verify the existence of such rights by means of a monthly entry of grubbing, replanting and new planting in the vineyard register of each Member State or in the Community vineyard register, where the latter is in use in the administrative unit concerned.

2. For the purposes of this Regulation, all grubbing operations liable to give rise to replanting rights must be the subject of an on-the-spot check by the competent authorities. All natural or legal persons intending to grub up an area under vines must present a grubbing declaration to the competent authorities at least 30 days before the commencement of such operations. This declaration shall include information identifying the person, his holding and the parcel to be grubbed, as well as the intended date of grubbing.

3. The transferor must be in compliance with the Community rules on wine production potential.

4. Growers who have acquired new planting rights during the five previous marketing years or the current marketing year may not transfer rights.

Article 3

To carry out a transfer, the applicant must fulfil the following conditions, for the categories of use of the vine varieties in question :

- he must not hold any rights in hand, or hold insufficient such rights to carry out the envisaged planting; rights in hand must be used first for any planting on the holding before the rights obtained by transfer may be used,
- he must not have received a permanent abandonment premium during the five previous marketing years or the current marketing year and must undertake not to apply for such a premium during the five following marketing years, without prejudice to the provisions laid down in Article 4 (2), second indent, of Council Regulation (EEC) No 777/85⁽¹⁾ and in Article 3 (2), third indent, of Council Regulation (EEC) No 456/80⁽²⁾.

If, without taking account of transfers, the replanting right may be exercised only on the area where grubbing up was carried out, this condition applies only to the parcels which are the subject of the transfer application,

- he must not have transferred replanting rights during the previous five marketing years or the current marketing year and he must undertake not to transfer any during the five following marketing years,
- he must not be infringing Community or national wine rules.

Article 4

1. The transfer shall be subject to prior official authorization, which shall be valid only for a specified parcel of destination and a given variety.

2. Member States shall appoint one or more authorities which shall centrally register transfers, by which transferors shall forego the replanting right in question. The registration shall be entered in the vineyard register, for the purpose of updating the latter. Such registration must make it possible to obtain the information referred to in Article 2 (1), even before the establishment of the vineyard register.

3. The transfer shall give rise to the issue by the competent authorities to the acquirer of a document containing the following :

- particulars of the transferor, his holding and the parcel to which the right attaches as set out in the vineyard register or in accordance with the rules in force, in cases where the vineyard register has not yet been established,
- particulars of the acquirer, his holding and the parcel of destination, as in the previous indent, and the variety and the category of the area in accordance with the conditions for authorization laid down in the second indent of the second subparagraph of Article 7 (2) of Regulation (EEC) No 822/87,
- the dates of grubbing and of expiry of the right.

4. After transfer, the right must be used within the period of validity of the right in question and before the end of the second marketing year following that in which the authorization was issued.

Article 5

1. Transfers may be carried out only within the same production region. Production characteristics throughout the region must be sufficiently homogeneous to ensure that the generalization of transfers does not give rise to socio-structural or economic imbalances.

In particular, the usual agronomic yields must be comparable throughout the region.

⁽¹⁾ OJ No L 88, 28. 3. 1985, p. 8.

⁽²⁾ OJ No L 57, 29. 2. 1980, p. 6.

2. The area which may be the subject of a transfer shall be restricted, for each Member State and for each marketing year, to 1 % of the total area intended for the production of table wine, table grapes and the cultivation of mother plantations in the Member State concerned.

3. Member States shall draw up for each production region :

- a list of varieties recognized as improving quality and having a moderate yield ; varieties planted as the result of a transfer must be among those included in this list,
- a minimum area of between 10 and 50 ares to be planted under each transfer,
- a maximum annual acquired area for each holding,
- allocation criteria specific to each region, which must comply with the quality objectives of this Regulation.

To be authorized, transfer applications must fulfil the conditions set out above.

4. Member States shall notify potential applicants of the definitive criteria before 1 March each year. The criteria may be drawn up in order of priority of allocation ; in cases where all the applications together exceed the maximum area indicated in paragraph 2, authorizations shall be granted in accordance with the order of priority or subject to a reduction across the board.

Article 6

Transfer applications shall be lodged with the competent authorities before 15 April. The competent authorities shall reply to the applications and forward the transfer authorizations before 1 September.

However, in the case of implementation during the 1990/91 marketing year, the dates in question shall be 1 January 1991 and 1 March 1991 respectively.

Article 7

1. Before 1 January each year, Member States shall inform the Commission of any measures to be adopted pursuant to this Regulation, and particularly those relating to Article 5. The Commission shall decide if these measures comply with Community rules.

Member States shall inform the Commission of the competent authorities appointed to apply this Regulation and shall specify the distribution of their tasks.

2. Member States shall inform the Commission, before the end of the marketing year, of the number of transfer authorizations granted for each region during the marketing year, the number of transferors and acquirers, the areas concerned and the average value of the transactions ; the information shall be broken down according to the categories of use of the vine varieties.

This information may be included in the annual communication made by Member States under Article 9 of Regulation (EEC) No 822/87.

Article 8

1. Where a transfer is the subject of a commercial transaction, the amount of the transaction shall be registered.
2. The national authorities shall ensure that the market is transparent and that winegrowers are informed of the costs of transactions.

TITLE II

Special rules governing transfers intended for the production of table wines

Article 9

1. Transfer authorizations shall be granted subject to compliance with a maximum yield level which may not be exceeded, and which shall be fixed by the Member State in each region.
2. Authorization shall not be granted for the transfer of rights to plant vines which are to be cultivated using a high productivity system, such as irrigated vines or vines on pergolas.
3. Where there is a division into 'terroirs' with a given varietal potential, transfer authorizations shall be granted only for varieties recognized as improving quality.

Article 10

1. Transfer authorizations shall be granted only in respect of production offering assurances of a consistently high level of quality.
2. The allocation criteria laid down by the Member States under Article 5 (3) and (4) shall be confined to :
 - winegrowers qualifying for structural improvement measures pursuant to Council Regulation (EEC) No 797/85⁽¹⁾,
 - winegrowers whose vineyards are the subject of joint restructuring operations or of improvements which are in the general interest,
 - members of collective winemaking groups or winegrowers with individual cellars pursuing a policy of high quality based on the selection of vintages and appropriate winemaking equipment,

⁽¹⁾ OJ No L 93, 30. 3. 1985, p. 1.

- winegrowers producing or who have undertaken to produce wines with a geographical ascription as provided for in Article 72 of Regulation (EEC) No 822/87,
 - winegrowers who can show that their production of wine has been marketed for a long period and in full on satisfactory market terms.
3. Where there is a danger of imbalance on a market for products of a particular origin, the Member State may suspend or restrict transfers to the production zones in

question, particularly in the case of products with a geographical ascription. In such cases, the Member State shall inform the Commission thereof.

Article 11

This Regulation shall enter into force on the third day following 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, 15 November 1990.

For the Commission
Ray MAC SHARRY
Member of the Commission
