COMMISSION

COMMISSION DECISION
of 20 September 2000
on the State aid implemented by France in the wine-growing sector

(notified under document number C(2000) 2754)

(Only the French text is authentic)

(2001/52/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having called on interested parties to submit their comments pursuant to those provisions and having regard to those comments,

Whereas:

I

PROCEDURE

(1) The French authorities notified an aid scheme for adapting the vineyards in Charentes by letter of 3 February 1999, recorded as recieved on 8 February 1999. Requests for further information were sent on 18 March and 14 July 1999. The French authorities replied by letters of 6 May and 28 July 1999.

(2) The Commission initiated the procedure provided for in Article 88(2) of the EC Treaty in respect of the above aid measure by letter No SG (99) D/8176 of 15 October 1999. The procedure was initiated in respect of three of the four measures initially notified by the French authorities. The Commission raised no objections to the measure to supplement the grubbing premium.

(3) The decision to initiate the procedure was published in the *Official Journal of the European Communities* [1]. The Commission called on the other Member States and interested parties to submit their comments on the aid in question. The Commission has received no comments from interested parties. The French authorities sent their comments by letter of 13 December 1999.

(4) On 12 March 1999 and 6 April 2000, without informing the Commission or awaiting completion of the investigation procedure, the French authorities adopted two decrees on the conditions for granting the aid for improving the vine population of wine-growing holdings in the Cognac region for the 1998/1999 and 1999/2000 wine years, respectively [2]. The Commission again contacted the French authorities, by letter from the deputy Director-General for Agriculture of 31 May 2000, to inquire whether the supplement to national aid for improving the vine population had actually been implemented. It drew attention to Article 88(3) of the Treaty, which prohibits the implementation of State aid. It also mentioned the principle that aid which is not compatible with the common market is to be recovered. The French authorities sent the abovementioned legislative texts by letter of 28 June 2000, implicitly confirming thereby that the measure had been adopted.

II

DESCRIPTION

(5) The envisaged scheme continues the conversion of the vineyards in Charentes, currently used to produce cognac, to the production of other wines ('local wines'). This scheme is a response to the crisis affecting the sector, which is resulting in a substantial accumulation of stocks.

(6) The conversion is to be effected through four measures intended to promote the production of wine for which there is consumer demand and reduce the volumes of cognac produced.

[1] OJ C 359, 11.12.1999, p. 7.

[2] JORF, 11.4.1999 and JORF, 23.4.2000.

Supplement to national aid for improving the vine population

The purpose of the aid is to improve the quality of the vineyards. The measure edncourages cognac producers to switch to 'local wine' production by promoting the use of certain vine varieties ([1]). The measure would cover only 1 000 hectares of vineyards.

The estimated budget is FRF 10 000 000 (EUR 1 524 000) and the aid would be granted in the form of an additional payment of FRF 10 000/ha (EUR 1 524) to wine-growers alreade eligible for national aid for improving the vine population.

The aid would be granted for one year, the French authorities having indicated that the multiannual character of the measure would not be endorsed until an assessment had been made at the end of the first year of operation.

The level of aid would be as follows:

— FRF 24 000/ha for wine-growers delivering their entire production to a producer group acting as a marketing consortium or a wine-growers' cooperative belonging to such a group. The aid supplement would increase the total amount of aid to FRF 34 000/ha,

— FRF 22 000/ha for wine-growers delivering part of their production to a wine-growers' cooperative belonging to a producer group recognised as a marketing consortium or belonging to an association of producer groups or a vineyard-restructuring association. The aid supplement would increase the total amount of aid to FRF 32 000/ha,

— FRF 10 000/ha to other wine-growers. The aid supplement would increase the total amount of aid to FRF 20 000/ha.

Technical support for producers

This measure is designed to accompany the measure described above and consists in helping wine-growers to adapt their production methods by means of a programme of events and training initiatives focusing on the conversion of vineyards. Under this programme, information meetings would be organised, booklets would be distributed and experts would dispense advice on growing and wine-making techniques. The estimated budget amounts to FRF 5 000 000 (EUR 762 000).

Promotion of cognac

These measures are intended to halt the disappearance of outlets for cognac by promoting the product. They include the organisation of fairs and exhibitions, public relations events and publicity compaigns. They will mainly be held in third countries, particularly in Asia and America. The estimated budget amounts to FRF 5 000 000 (EUR 762 000) for 1999.

Supplements to the grubbing premium

These are structural measures to reduce cognac production capacity in the Charentes region.

(7) Turning to the supplement to national aid for improving the vine population, when the examination procedure was initiated for the notified measures the Commission took the view that Article 14 of Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ([2]), as amended by Regulation (EEC) No 2253/88 ([3]), prohibits the grant of national aid for the planting of wine-growing areas from 1 September 1988, except where such aid contains criteria to ensure, in particular, that the objective of reducing production or improving quality is achieved without leading to increased production. Accordingly, only varieties which bring about an improvement in quality and to not have high productivity in the terrain concerned will be allowed. The varieties communicated to the Commission by the French authorities met these conditions. Moreover, the total amount of aid would not exceed the ceiling laid down in Commission Regulation (EEC) No 2741/89 ([4]), which stipulates that the amount of aid granted per hectare of vineyard planted may not exceed 30 % of the actual cost of grubbing-up and planting, which may be determined on a flat-rate basis in each region, particularly in the light of geomorphological characteristics.

(8) However, the new Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ([5]) contains provisions on the abandonment of wine-growing areas and the restructuring and conversion of vineyards. Since the programme presented by the French authorities seeks a long-term solution to the problem of wine production in the Charentes region, the measures envisaged must take account of the new rules under this common organisation of the market. This Regulation establishes a system for the restructuring and conversion of vineyards, the objective of which is to adapt production to market demand. In accordance with Article 15(c) of Regulation (EC) No 1493/1999, Commission Regulation (EC) No 1227/2000 of 31 May 2000 laying down detailed rules for the

([1]) Arriloba B, Cabernet franc N, Cabernet Sauvignon N, Chardonnay B, Chasan B, Chemin B, Cot N, white-juiced Gamay N, Merlot N and Sauvignon B.

([2]) OJ L 84, 27.3.1987.
([3]) OJ L 198, 26.7.1988.
([4]) OJ L 264, 12.9.1989.
([5]) OJ L 179, 14.7.1999.

application of Council Regulation (EC) No 1493/1999 on the common organisation of the market in wine [1], contains provisions aimed at preventing increases in production potential resulting from the implementation of conversion measures. The information sent shows that conversion involved producing new quantities of 'local wine', in other words increasing overall production. In addition, Article 2(1) of Regulation (EC) No 1493/1999 prohibits planting with vines classified as wine-grape varieties until 31 July 2010. The Commission was therefore bound to conclude that one of the legislator's aims in establishing the new organisation of the market in wine was to prevent an increase in wine production.

(9) According to the French authorities, the additional wine production resulting from the varietal conversion (1 to 1,5 million hectolitres) should be absorbed by the 'local wine' market, which they claim has been growing steadily in France since 1988. However, other information from French sources — in particular Report No 65 of 7 July 1999 of the Office national interprofessionnel des vins (Onivins — National Interprofessional wine office) — gives a less optimistic outlook for 'local wine' sales. Thus, although sales of local wines increased by 9 % in the period 1994 to 1998 they have levelled off over the last two years.

(10) While the Commission agreed that the varietal conversion of the vineyards in the Charentes region has the advantage of reducing the production of wines for which there is no market, it considered that the resulting increase in 'local wine' production in France is incompatible with the principles contained in the new organisation of the market in wine and is likely to distort competition on a wine market which is showing no signs of growth. It had to be borne in mind that the wines resulting from the conversion of these vineyards would enter the ordinary wine market, while current production by definition goes to other destinations outside that market. Consequently, there was a strong risk that the general conversion of these vineyards would shift the problem on to other markets since it would lead to an overall net increase in the quantity of wine placed on the market, which would be incompatible with the objectives of the new common organisation of the market.

(11) In these circumstances, and in the absence of any action on the part of the French Government to adapt the measure to the new requirements in the sector, for example by ensuring that the conversion of the vineyards in the Charentes region was accompained by a substantial reduction in wine-growing areas and yields, the Commission doubted whether the measure was in keeping with the new requirements at Community level.

(12) Turning to the technical support for producers, the Commission concluded that this measure was comparable to training aid aimed at improving farmers' technical skills and could therefore help develop the wine-growing sector without affecting trading conditions to an extent that was contrary to the common interest. However, since this measure was designed to accompany the measure described above, the Commission decided not to state a position on it until the other measure had been approved.

(13) In the case of the cognac promotion measure, the Commission noted that taken in isolation the planned measure complied with the Community rules, but decided nevertheless to examine it in the light of similar measures authorised in the past. In 1998, for example, it authorised aid to the Bureau national interprofessionnel du cognac (National interprofessional cognac office) for promotional measures planned over a four-year period [2]. The Commission wondered therefore whether the new allocation for measures to promote cognac might not result in a cumulative distortion of competition having adverse effects on producers of other spirits in the Community. Accordingly, it could not authorise this aid without first hearing the French authorities' arguments regarding the relationship between the aid already authorised and that notified and the steps which they intended to take to prevent excessive distortions of competition vis-à-vis other Community producers.

(14) Conversely, when the procedure was initiated, the Commission considered that the supplement to the grubbing premium was in conformity with the Community competition rules, and so the examination procedure did not concern this fourth measure.

(15) The Commission thus considered that the measures consisting in a supplement to national aid for improving the vine population, technical support for producers and cognac promotion constituted an advantage for wine-growers. These aid measures were therefore not regarded in principle as compatible with the common market, unless they could qualify under one of the derogations provided for in Article 87(2) or (3) of the Treaty. On the basis of the information available, the Commission was unable to conclude that the aid measures were compatible. The Commission therefore deemed it necessary to initiate the procedure provided for in Article 88(2) of the Treaty.

III

COMMENTS FROM FRANCE

(16) By letter of 13 December 1999, the French authorities presented their comments on the Commission's decision to initiate the procedure provided for in Article 88(2) in respect of the aid measures notified.

[1] OJ L 143, 16.6.2000.

[2] State aid N 327/98. Letter to France SG(98) D/6737 of 4 August 1998.

(17) The French authorities point out that the objective of the supplement to national aid for improving the vine population is to reduce production potential in the region by restricting yields. Thus, the average yields currently recorded are around 150 hectolitres per hectare of vines in production. After conversion to local wine the average yield of the converted vineyards should drop to around 90 hectolitres per hectare.

(18) According to the French authorities, conversion would help the vineyards in Charentes to meet market requirements, while the wines they are currently producing are not of sufficient quality to have guaranteed outlets. In addition, conversion would in the long term reduce the volume to be delivered for compulsory distillation of dual-purpose grapes, thereby also reducing EAGGF expenditure in that connection.

(19) Since only 1 000 hectares would be converted under this measure, the French authorities think it might even be necessary to continue the conversion effort further, particularly for the purpose of implementing the scheme provided for in Article 11 of Regulation (EC) No 1493/1999. They add that the notified measures comply with the abovementioned Reuglation, which prohibits new vine planting and introduces a scheme for conversion of vineyards, because they aim not at extending the vineyards in Charentes, but at helping to adapt to the market, through both abandonment and conversion of existing vines (1 000 ha).

(20) The French authorities go on to contest the Commission's calculations of the volume of local wines likely to be placed on the market, which it assessed at 1,5 million hectolitres. They claim that the conversion measure will result in a reduction of 150 000 hectolitres in table wines and the production, three years hence, of 80 000 to 90 000 hectolitres of local wines. According to the French authorities, however, the market in local wine is very buoyant and well able to continue expanding on the world market. They argue that the approved volumes have increased appreciably in recent years, from 7 million hectolitres in 1996 to more than 10 million in 1997 and 1998, despite a smaller harvest as a result of poor weather during the last two wine years. The slower growth noted in 1998/1999 to which the Commission referred when it initiated the examination procedure could not mean that demand was levelling off, because the prices of local wines had risen substantially during the wine year: up 14 % for local red wines (and up as much as 20 % for varietal wines) and up 11 % for local white wines (up as much as 16 % for varietals). The French authorities therefore consider that the measure will not result in a net increase in wine production on the market but, rather, will help adapt to the market a wine-growing region permitted to make wine under the Community rules.

(21) Regarding the cognac promotion measure, the French authorities have informed the Commission that they had decided not to implement the measure and were thus withdrawing its notification under Article 8 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 88 of the EC Treaty [1].

IV

ASSESSMENT

(22) Article 7(1) of the Treaty states that, save for the derogations provided for therein, any aid granted by the Member States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is incompatible with the common market, in so far as it affects trade between Member States.

(23) For its part, Article 76 of Regulation (EEC) No 822/87 provides that Articles 87, 88 and 89 of the Treaty are to apply to the production of and trade in wine-growing products, save as otherwise provided in that Regulation.

(24) The supplement to national aid for improving the vine population and the accompanying technical support measure confer an advantage on the wine-growers concerned that other producers cannot enjoy. As a consequence, the measures distort or threaten to distort competition in the ways already described and therefore fall within the definition of State aid in Article 87(1).

(25) The aid is likely to affect trade between Member States in so far as it favours national production over that of the other Member States. The wine-growing sector is especially open to competition at Community level, particularly in France, and is consequently very sensitive to any measure favouring production in a particular country.

(26) The following table shows the level of trade in wine-growing products between France and the other Member States:

Wine — Total

1999/2000	EU-15	France
Usable production	168 076 000 hl	54 271 000 hl
Exports to EU-15	—	15 500 000 hl
Imports from EU-15	—	5 700 000 hl

[1] OJ L 83, 27.3.1999, p. 1.

(27) However, there are exceptions to the principle concerning the incompatibility of State aid set out in Article 87(1).

(28) The derogations from this incompatibility provided for in Article 87(2) are obviously not applicable. Nor did the French authorities invoke them.

(29) The derogations provided for in Article 87(3) of the Treaty must be interpreted strictly when considering regional or sectoral aid programmes or any individual case of application of general aid schemes. In particular, they may be allowed only where the Commission is able to establish that the aid is necessary to achieve one of the aims in question. Allowing such derogations to apply to aid not meeting that condition would be tantamount to allowing trade between Member States to be affected and permitting distortion of competition that has no justification in the light of the Community interest and, by the same token, undue advantages for the operators of certain Member States.

(30) The Commission considers that the aid measures in question are not intended to encourage economic development in a region where the standard of living is abnormally low or where there is serious underemployment within the meaning of Article 87(3)(a) of the Treaty. Nor are they intended to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State within the meaning of Article 87(3)(b). Nor again are they intended to promote either culture or heritage conservation within the meaning of Article 87(3)(d).

(31) The only possible derogation in this case is that provided for in Article 87(3)(c), which stipulates that aid to facilitate the development of certain economic activities or of certain economic areas may be considered to be compatible with the common market, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

Supplement to national aid for improving the vine population

(32) When initiating the examination procedure, the Commission concluded that the vine varieties envisaged by the French authorities in theory meet the requirements of Community legislation (see description, recital 7).

(33) The Commission also concluded that the measure complied with Article 5 of Regulation (EEC) No 2741/89, which stipulates that the amount of aid granted per hectare of vineyard planted may not exceed 30 % of the actual cost of grubbing-up and planting (recital 7).

(34) However, the Commission noted that the common organisation of the market in wine introduced by Regulation (EEC) No 822/87 prohibits the grant of national aid for the planting of wine-growing areas from 1 September 1988, except where such aid contains criteria to ensure, in particular, that the objective of reducing production or improving quality is achieved without leading to increased production (recital 8).

(35) The Commission concludes, moreover, that any increase in the production of local wines in France is incompatible with the principles contained in the new organisation of the market in wine and is likely to distort competition on a wine market which is showing no signs of growth (recital 10).

(36) In these circumstances, and in the absence of any action on the part of the French Government to adapt the measure to the new requirements in the sector, for example by ensuring that the conversion of the vineyards in the Charentes region is accompanied by a substantial reduction in wine-growing areas and yields, the Commission doubted whether the measure was in keeping with the new requirements at Community level (recital 11).

Reducing production potential: reducing yields

(37) The French authorities explain that the measure is aimed precisely at reducing production potential and restricting yields, and should reduce the average yield of the converted vineyards from 150 hl to approximately 90 hl pe hectare. Moreover, such conversion would help bring wine production into line with market demand, and in the long tem reduce the volume to be delivered for compulsory distillation of dual-purpose grapes, thereby also reducing EAGGF expenditure in that connection.

(38) The Commission endorses the French authorities' conclusion that conversion to other varieties would considerably reduce production potential. However, the problem of reducing yields should not be analysed exclusively in terms of the results of varietal conversion, but also in terms of reducing the yield capacity of vines intended for the production of cognac. In this connection, the figures supplied to the Commission by the French authorities by letter of 30 May 2000, on the scheme in Charentes in the context of the common organisation of the market in wine, show that the yields of vines of the 'ugni-blanc' variety intended for cognac production have increased substantially, from 80 hl per hectare in 1976 to 120 hl per hectare today [1]. The Commission takes the view that yield reduction should

[1] The latter figure is different from the figure provided by the French authorities in their letter of 13 December 1999.

also apply to the 'ugni-blanc' variety intended for the production of cognac, which is causing the region's production surpluses. The French authorities' figures show room for manœuvre in which to bring about such a reduction. The Commission cannot therefore consider reduction resulting from varietal conversion alone sufficient.

Reduction in wine-growing areas

(39) The French authorities consider that half the reduction in wine-growing areas is being implemented through the permanent abandonment measure and half through the conversion of existing vines. They go on to argue that, since only 1 000 hectares would be converted under this measure, it might even be necessary to continue the conversion effort further in the context of implementing the scheme provided for in Article 11 of Regulation (EC) No 1493/1999. They add that their notified measure would comply with that Regulation, which prohibits new vine planting and introduces a scheme for converting vineyards, since it aims not at extending the vineyards in Charentes, but at helping to adapt them to the market by encouraging permanent abandonment.

(40) The Commission agrees with the French authorities that permanent abandonment is an effective way of encouraging adaptation of vineyards in Charentes to the market. However, it is bound to point out that, since grubbing is voluntary, there is no a priori guarantee that restructuring 1 000 ha will be accompanied by the grubbing of an equivalent area. Moreover, the French authorities have themselves in the past calculated the percentage by which the total wine-growing area in the region (estimated at around 80 000 ha) should be reduced at 15 % to 20 % (12 000 to 16 000 ha), which proves that merely applying this measure will do little to contribute to a satisfactory solution for the region concerned. The fact that the French authorities are proposing to continue conversion under the new market organisation in wine shows that they are aware of this fact.

Bringing production into line with demand

(41) Article 11(1) of Regulation (EC) No 1493/1999 does indeed establish a scheme for restructuring and conversion of vineyards. Article 11(2) states that the purpose of the scheme is to adapt production to market demand. The French authorities have tried to demonstrate that their measures comply with this condition.

(42) Firstly, the French authorities challenge the Commission's estimate of the volume of local wines likely to be placed on the market (1,5 million hectolitres). They claim that the conversion measure will result in a reduction of a 150 000 hectolitres in table wines and the production, three years hence, of 80 000 to 90 000 hectolitres of local wines.

(43) Moreover, according to the French authorities, contrary to the Commission's argument in recital 9, the market in local wine should be able to continue expanding on the world market (recital 20), According to them, approved volumes have increased appreciably in recent years, despite a smaller harvest due to poor weather in the last two wine years. The slower growth recorded in 1998/1999 could not mean that demand was levelling off, because the prices of local wines had risen substantially during the wine year: up 14 % for local red wines (and up as much as 20 % for varietal wines), and up 11 % for local white wines (up as much as 16 % for varietals).

(44) Information received after intiation of the examination procedure, again provided by the 'Office national interprofessionnel des vins (Onivins)' ([1]), confirms that the weighted average price of red and rosé local wines 20 weeks into the 1999/2000 wine year was 5 % down on the previous wine year (7 % for red local wines with mention of the variety and 5 % for rosé local wines with mention of the variety) and 8 % down for white local wines (10 % for white local wines with mention of the variety). This information, which should certainly be treated with caution, does not coincide with the French authorities' position that the market in local wines is constantly expanding.

(45) In the light of the information it has received and in the absence of any analysis of the real market impact of such a measure, the Commission continues to doubt whether the market has the capacity to absorb the new quantities of local wine which would be produced as a result of varietal conversion in the Charentes region.

Distortions of competition

(46) Consequently, while reiterating that the measure is concerned with conversion of the sector which will have long-term effects, the Commission confirms the conclusion it drew when it initiated the examination procedure, that the increase in production of local wines in France goes against the principles of the new market organisation in wine and is likely to create distortions of competition on a wine market which does not show sure signs of expansion. The Commission therefore maintains that the fact that the wines resulting from the conversion of these vineyards would go onto the normal

([1]) Report No 70, of 2 February 2000.

wine market, while the wine currently produced has, by definition, other destinations outside that market, is highly likely to shift the problem to other markets/areas while causing a net increase in the production of wines placed on the market. This would run counter to the objectives of the new market organisation.

(47) The Commission wishes to stress that this conclusion also applies to the former market organisation for wine, which also contained the principle of zero increase in production.

(48) The Commission takes the view that, by shifting the problems experienced in Charentes to other regions in the Community the measure implemented by the French authorities is likely to create substantial distortions of competition in a sector where increases in production are particularly strictly controlled and considers that only measures adopted in the context of the common agricultural policy, specifically under the common organisation of the market concerned, can ensure that the interests of all those operating on this market are taken into account. In this connection it should be remembered that recourse by a Member State to Articles 87, 88 and 89 of the Treaty cannot take precedence over the regulation governing the organisation of the market in question ([1]). The application of those Articles continues to be subject to the regulations concerned. The Commission cannot approve aid measures which, by nature, are incompatible with the provisions governing the common organisation of a market or which hamper the proper operation of the market organisation concerned.

(49) The Commission thus finds that the French authorities have not managed to adapt the measure to the new rules in the sector by requiring, in particular, that conversion of the Charentes vineyards be accompanied by a substantial reduction in wine-growing areas and yields. It must therefore conclude that the measure is not compatible with the new Community requirements or, therefore, with the Community competition rules, in particular Article 87(3)(c) of the Treaty.

Technical support

(50) Since the technical support measure accompanies the measure dealt with above, which is incompatible with the common market, there are no longer any grounds for applying it, and the Commission is not in a position to approve it.

([1]) Judgment of the Court of 26 June 1979 in Case 177/78 *Pigs and Bacon Commission* v *McCarren and Company Limited* [1979]ECR 2161.

Promotion of cognac

(51) There is no need for the Commission to assess this measure, since the French authorities have withdrawn it.

V

CONCLUSION

(52) The measure consisting of a supplement to national aid for improving the vine population and the accompanying measure entailing technical support for producers do not qualify for the derogation provided for in Article 87(3) of the Treaty, since they do not meet the requirements laid down in the common organisation of the market in wine. As a consequence, they are not compatible with the Treaty and may not be implemented.

(53) On 12 March 1999 the French authorities adopted a decree on the conditions for granting the aid for improving the vine population of wine-growing holdings in the Cognac region for the 1998/1999 wine year. On 6 April 2000 they adopted an identical decree for the 1999/2000 wine year. These decrees implement the measure notified to the Commission in contravention of Article 88(3). The measure is therefore unlawful aid within the meaning of Article 1(f) of Regulation (EC) No 659/1999.

(54) The Commission regrets that the French Republic implemented the above aid measure in contravention of Article 88(3) of the Treaty.

(55) It should be remembered that, in the case of aid measures implemented without awaiting the Commission's final decision, given the binding nature of the rules of procedure laid down in Article 88(3) of the Treaty, which the Court of Justice recognised as having direct effect in its judgments of 19 June 1973 in Case 77/72, *Carmine Capolongo* v *Azienda Agricola Maya* ([2]); of 11 December 1973 in Case 120/73, *Gebrueder Lorenz GmbH* v *Federal Republic of Germany* ([3]) and of 22 March 1977 in Case 78/76, *Steinike & Weinlig* v *Federal Republic of Germany* ([4]), the illegality of the aid concerned cannot be regularised *ex post facto* (judgment of 21 November 1991 in case C-354/90, *Fédération Nationale du Commerce Extérieur des Produits Alimentaires* v *French Republic*) ([5]).

([2]) ECR 1973, p. 611.
([3]) ECR 1973, p. 1471.
([4]) ECR 1977, p. 595.
([5]) ECR 1991, p. I-5505.

(56) Where an unlawful aid is incompatible with the common market, Article 14(1) of Regulation (EC) No 659/1999 provides that the Commission must decide that the Member State concerned should take all necessary measures to recover the aid from the beneficiary. Such reimbursement is necessary to re-establish the situation applying previously, and involves cancelling all the financial advantages from which beneficiaries of the unlawfully granted aid have unduly benefited since the date the aid was granted.

(57) Article 14(2) of Regulation (EC) No 659/1999 stipulates that recovery includes interest at an appropriate rate fixed by the Commission. Such interest is payable from the date on which the unlawful aid was made available to the beneficiary.

(58) The aid must be reimbursed in accordance with the procedures laid down by French law. The amounts include interest from the date on which aid was granted until the date of its effective recovery. It is to be calculated at the Commission's reference rate, laid down by the method for setting the reference and discount rates [1].

(59) This Decision will not prejudice the conclusions the Commission may draw, if necessary, for the financing of the common agricultural policy by the European Agricultural Guidance and Guarantee Fund (EAGGF).

(60) The measure entitled 'promotion of cognac' was withdrawn by the French authorities under Article 8 of Regulation (EC) No 659/1999. The Commission therefore concludes that there is no longer any need to rule on that measure,

HAS ADOPTED THIS DECISION:

Article 1

1. The measure implemented by France consisting of a supplement to national aid for improving the vine population of wine-growing holdings in the Cognac region for the 1998/1999 and 1999/2000 wine years is an unlawful aid incompatible with Articles 87, 88 and 89 of the Treaty and does not qualify for the derogation provided for in Article 87(3) of the Treaty.

2. The accompanying measure providing for technical support to producers is incompatible with Articles 87, 88 and 89 of the Treaty and does not qualify for the derogation provided for in Article 87(3) of the Treaty.

Article 2

France shall be required to cancel the aid schemes referred to in Article 1.

Article 3

France shall take the measures necessary to recover the aid granted to beneficiaries under the schemes referred to in Article 1.

Article 4

France shall inform the Commission, within two months of notification of this Decision, of the measures that it has taken to comply therewith.

Article 5

This Decision is addressed to the French Republic.

Done at Brussels, 20 September 2000.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 273, 9.9.1997.