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(Acts whose publication is obligatory)

REGULATION (EEC) No 985/73 OF THE COUNCIL

of 9 April 1973

amending Regulation (EEC) No 1388/70 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 816/70 [1] of 28 April 1970 laying down additional provisions for the common organization of the market in wine, as last amended by Regulation (EEC) No 2680/72 [2], and in particular Article 16 (1) thereof;

Having regard to the proposal from the Commission;

Whereas experience has shown that it is not advisable that the only amendment possible to the classification of vine varieties should be the addition of a vine variety to the category of recommended vine varieties; whereas provision should be made for vine varieties to be added also to the categories of authorized vine varieties and provisionally authorized vine varieties; 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 December 1973 on the category of authorized vine varieties should be granted only on a provisional basis after examination of their cultivation suitability and during an observation period of five years; whereas the fate of the variety in question should be finally decided at the end of that period;

Whereas the addition of varieties which, when this Regulation enters into force, are cultivated in the Community but are not listed in the classification for all the administrative units where their cultivation should be recommended or authorized should be allowed until 31 December 1973 without examination made of their cultivation suitability; whereas these varieties should be added to the classification only if their cultivation suitability is demonstrated in an appropriate manner;

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 Council Regulation (EEC) No 1388/70 [3] of 13 July 1970 on general rules for the classification of vine varieties, amended by Regulation (EEC) No 608/71 [4], should be amended in the light of the abovementioned considerations;

HAS ADOPTED THIS REGULATION:

Article 1

In the second indent of Article 6 (1) (a) of Regulation (EEC) No 1388/70, the words 'in accordance with Article 10 (2)' are replaced by the words 'in accordance with Article 10 (a)'.

Article 2

Articles 10 and 10 (a) of Regulation (EEC) No 1388/70 are replaced by the following:

(1) OJ No L 99, 5. 5. 1970, p. 1.
(2) OJ No L 289, 27. 12. 1972, p. 1.
(3) OJ No L 155, 16. 7. 1970, p. 5.
(4) OJ No L 71, 25. 3. 1971, p. 1.

'*Article 10*

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 thé vine variety in question can yet be made on the basis of the results of the examination ;

(c) exceptionally, to the category of recommended or authorized vine varieties until not later than 31 December 1973 :

— if the variety has been cultivated for at least 10 years in the administrative unit or part thereof in question, or where appropriate in the Community as a whole ;

and

— where the cultivation suitability has not been examined in accordance with Community provisions, it has been demonstrated in an appropriate manner.

2. The category of a vine variety for the same administrative unit or the 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 :

— vine varieties appearing, on 31 December 1973, 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 December 1973 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 vine variety in question is listed are not fulfilled,

or

— the quality of the product which it yields renders it necessary,

or

— the area under the vine variety in question 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 the provisional nature of the inclusion. Between five and seven years after the provisional inclusion of the variety in the category of authorized vine varieties, it shall be decided on the basis of experience and taking account of the tests on cultivation suitability carried out pursuant to Article 10 (a), 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 provisionally 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 provisionally 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 7 of Regulation No 24 on the progressive establishment of a common organization of the market in wine [1], as last amended by Regulation (EEC) No 2504/71 [2].

Article 10 (a)

1. Subject to Article 10 (1) (c), the cultivation suitability of a vine variety shall be determined on the basis of the information obtained by the Member State 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 use of the grapes or propagation 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 on the cultivation suitability of the vine variety in question.

3. The determination of the cultivation suitability referred to in paragraph 1 shall be effected in accordance with the procedure provided for in Article 7 of Regulation No 24. 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 3

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 Luxembourg, 9 April 1973.

For the Council

The President

A. LAVENS

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[1] OJ No 30, 20. 4. 1962, p. 989/62.
[2] OJ No L 261 26. 11. 1971, p. 1.