COMMISSION REGULATION (EEC) No 546/83

of 9 March 1983

laying down provisions for distillation of table wine pursuant to Article 15 (2) of Regulation (EEC) No 337/79

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 337/79 of 5 February 1979 on the common organization of the market in wine (1), as last amended by Regulation (EEC) No 3082/82 (2), and in particular Articles 6 (3), 7 (6), 9 (5), 15 (9) and 65 thereof,

Having regard to Council Regulation (EEC) No 2144/82 of 27 July 1982 amending Regulation (EEC) No 337/79 on the common organization of the market in wine (3), and in particular Article 2 thereof,

Whereas the new system for the common organization of the market in wine, and in particular the measures provided for in Article 15 of Regulation (EEC) No 337/79, is applicable for the first time in the 1982/83 wine year; whereas, for lack of time, it has not yet been possible for the Council to adopt general rules for the application of the said Article; whereas, in the circumstances, the Commission should adopt, for the 1982/83 wine year, all the provisions relating to the distillation operations provided for in Article 15 (2) of Regulation (EEC) No 337/79, so as to enable the new measure to be implemented in good time;

Whereas the said Article 15 (2) provides that, where the state of the table wine market so requires, any appropriate measure, in particular distillation, may be adopted;

Whereas there are difficulties in marketing all table wines except those of types A III and R III and there has been no substantial improvement in spite of the measures already taken; whereas in these circumstances it seems necessary to implement the distillation measures provided for in Article 15 (2) of Regulation (EEC) No 337/79;

Whereas, in order for the market rationalization measure to attain its object, distillation must also be open to wines which are in a close economic relationship with the types of table wine in question; whereas, since the minimum purchase prices of wines delivered for distillation are fixed as a percentage of the guide prices for the various types of table wine, it is necessary to define the table wines which are in a close economic relationship with each type of table wine;

Whereas, in the absence of a Community definition of rosé wine and in the interests of clarity, it should be stated that rosé table wines must be treated in the same way as red table wines owing to the close economic relationship between them;

Whereas Article 6 of Regulation (EEC) No 337/79 provides that only producers who have complied with certain obligations for a reference period to be determined are entitled to benefit from the intervention measures; whereas for intervention measures in 1982/83 the reference period is, pursuant to Article 16 of Commission Regulation (EEC) No 2457/82 of 8 September 1982 laying down, for the 1982/83 wine-growing year, provisions concerning the distillation of the by-products of wine-making (4), as last amended by Regulation (EEC) No 36/83 (5), the period from 1 September 1981 to 31 August 1982;

Whereas it is necessary to rationalize the market without exceeding the quantities laid down in Article 15 (3) of Regulation (EEC) No 337/79; whereas, for this purpose, the maximum quantity of table wine which may be distilled by each producer should be restricted and there should be provision for reducing, if necessary, the volume of wine which may be distilled; whereas, to take account of the national provisions concerning the recognition of quality wines psr in some Member States, the maximum percentage of table wines of type A II which may be distilled should be determined by reference not to the table wine production but to the total wine production of each producer concerned;

Whereas, for each producer, the quantity of table wine corresponding to his total production should be determined; whereas, for producers who are not obliged to submit a harvest declaration, reference should be made to the records provided for in Commission Regulation (EEC) No 1153/75 (6), as last amended by Regulation (EEC) No 3203/80 (7);

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 326, 23. 11. 1982, p. 1.
(3) OJ No L 227, 3. 8. 1982, p. 1.
(4) OJ No L 262, 10. 9. 1982, p. 18.
(5) OJ No L 5, 7. 1. 1983, p. 14.
(6) OJ No L 113, 1. 5. 1975, p. 1.
(7) OJ No L 333, 11. 12. 1980, p. 18.

Whereas in some Member States where wine production is performed directly by the grape growers it is possible, for determining the quantities which may be distilled, to refer to the area cultivated; whereas this approach makes it possible for the benefits of the measure to be spread more equitably while ensuring the same degree of economic efficacy;

Whereas, so that all producers are treated in the same way where the decision is taken to reduce the quantities of wine for distillation contained in the delivery contracts and declarations, it is necessary to lay down that distillation operations may not commence until all the contracts and declarations have been submitted to the intervention agencies and the total quantities offered are known;

Whereas, in order to achieve its aim fully, the distillation measure in question should be accessible to all producers; whereas there is a risk that persons who concluded short-term storage contracts prior to the entry into force of the distillation measure in question may be unable to take full advantage of the possibility of having their wine distilled; whereas, accordingly, such producers should be allowed to cancel short-term storage contracts which they have already concluded, provided they conclude a delivery contract with a view to distillation;

Whereas provision should be made for producers to conclude with distillers delivery contracts subject to approval by the intervention agency in order to facilitate monitoring of the progress of operations and of the observance of the obligations of both parties; whereas this system would have the added advantage of making it easier to monitor the quantitative effects of distillation on the market;

Whereas, however, the contracts system must be adapted in order to take into account the fact that there are producers who intend to have their wine distilled on their behalf and producers who themselves possess distillation plants; whereas, in the case of the latter producers, the absence of a contractual obligation necessitates an official analysis of certain characteristics of the wine to be distilled;

Whereas it should be specified that the contracts and the delivery declarations must contain the information necessary for identification of the wines to which they relate;

Whereas, in order for the contracts and the delivery declarations to be effective, they must be approved in advance by the intervention agency; whereas the parties concerned must therefore be informed in good time of the outcome of the approval procedure;

Whereas certain time limits for the operation should be laid down for both producers and distillers to ensure that the measure is as effective as possible;

Whereas the price for wines for distillation normally renders it impossible to market the products of distillation at market prices; whereas it is therefore necessary to provide for an aid fixed in the light of the market price for the various products of distillation which can be obtained;

Whereas provision should be made for the minimum price guaranteed to producers to be paid to them, as a general rule, within a period which will enable them to obtain a profit comparable to that which they would have obtained from a commercial sale; whereas, in these circumstances, it is essential to pay the aid due to them for the distillation in question at the earliest opportunity, while guaranteeing that operations are correctly carried out by means of an appropriate system of securities; whereas, in order to allow the measure fully to achieve its purpose in the Member States, provision should be made for procedures for payment of aids and advances which are suited to the administrative systems of the different Member States;

Whereas, in the light of experience, a certain margin should be allowed in the quantity of wine and its actual alcoholic strength by volume specified in the delivery contracts; whereas, moreover, provision should be made, to cover the eventuality of chance circumstances of *force majeure,* for aid to be paid in respect of the quantity of wine which has actually been distilled;

Whereas, in order to allow the distillation measure to achieve its full purpose and in order to take account of the reality of the market in wines for distillation, it should be possible for wine to be fortified for distillation both by distillers and by manufacturers;

Whereas the fortification of wine for distillation takes place in the vicinity of the place where the table wine is held in order to limit transport costs to distilleries a great distance away; whereas authorization of fortification for distillation in a Member State other than that in which the producer's winery is located is not justified economically and is likely to create serious monitoring problems; whereas it should, therefore, be stipulated that the fortification of wine for distillation may take place only in the country where the table wine has been produced; whereas, in addition, Member States should be able to restrict the places at which wine may be fortified for distillation in order to ensure the most appropriate form of supervision;

Whereas, in order to ensure appropriate supervision of distillation operations, distillers and processors who fortify wine for distillation should be subject to a system of approval;

Whereas the intervention agencies and the Commission should be informed of the progress of distillation operations and should in particular be aware of the quantities of wine distilled and the quantities of products obtained ;

Whereas the addition of an indicator to the wine to be distilled is an efficient monitoring method ; whereas it should be laid down that the presence of such an indicator must not prevent the movement of these wines or of the products obtained therefrom ;

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. Distillation pursuant to Article 15 (2) of Regulation (EEC) No 337/79 is hereby authorized for table wines of types A I, R I and R II, for table wines in close economic relationship with these types and for table wines of type A II.

2. For the purposes of this Regulation, the following shall be considered as in close economic relationship with the type of table wine indicated :

— A I : white table wines with an actual alcoholic strength of more than 9,5 % vol which are not of types A I, A II or A III,

— R I : red table wines with an actual alcoholic strength of more than 9,5 % vol and not more than 12,5 % vol which are not of types R I or R III,

— R II : red table wines with an actual alcoholic strength of more than 12,5 % vol which are not of type R III.

3. The provisions of this Regulation relating to red wines shall also apply to rosé wines.

4. The producers referred to in Article 6 (1) of Regulation (EEC) No 337/79 shall not be entitled to benefit from the distillation measure provided for in this Regulation unless they have complied with their obligations during the reference period specified in Article 16 of Regulation (EEC) No 2457/82.

Article 2

1. Producers who wish to have their table wines distilled under this Regulation shall conclude contracts for the delivery of table wines — hereinafter referred to as 'contracts' — with an approved distiller and shall submit them to the competent intervention agency before 1 April 1983.

2. The total quantity of table wine in respect of which each producer may conclude one or more contracts may not exceed :

— in the case of table wines of type A II, 1,5 % of the quantity of wine he produced in the 1982/83 wine year,

— in the case of table wines of types A I, R I and R II and table wines in close economic relationship with those types of table wine, 10 % of the quantity of table wine he produced in the 1982/83 wine year.

However, Member States may stipulate that the total quantity in respect of which each producer may conclude one or more contracts may not exceed nine hectolitres per hectare of vineyard used to produce table wine by the producer in question. This possibility may either be extended to the entire territory of the Member State or confined to the whole of a wine-growing area or to the part of a wine-growing area included in the territory of that Member State.

No producer may deliver less than 10 hectolitres of table wine.

3. The quantity of wine or table wine produced to which the percentage specified in paragraph 2 applies shall be :

— for producers subject to the obligation referred to in Article 2 (1) of Commission Regulation No 134 [1], the total of the quantities given in their harvest declaration and the quantities given in the records referred to in Article 14 of Regulation (EEC) No 1153/75 and obtained by themselves after the date of submission of the harvest declaration, from products listed in the said declaration,

— for producers who are not subject to the obligation referred to in the first indent, the quantity given in the records referred to in Article 14 of Regulation (EEC) No 1153/75 and obtained by themselves by vinification of purchased must.

4. Any short-term storage contract concluded under Article 7 of Regulation (EEC) No 337/79 before the date when this Regulation enters into force shall be cancelled on request by the producer concerned provided that he concludes a contract to deliver for distillation as provided for in this Regulation.

In such a case the entitlement to short-term storage aid shall continue for the period from the first day of validity of the contract to the day when this Regulation enters into force.

[1] OJ No 111, 6. 11. 1962, p. 2604/62.

5. Member States shall notify the Commission before 8 April 1983 of the quantities of table wine covered by contracts submitted to the intervention agency.

6. If the notifications referred to in paragraph 5 show that the total quantity of table wines covered by contracts submitted to the intervention agencies exceeds four million hectolitres, the quantity covered by each contract shall be reduced *pro rata* subject to the minimum requirement laid down in the third subparagraph of paragraph 2.

Article 3

1. The contracts referred to in Article 2 (1) shall specify :

(a) the quantity, colour and actual alcoholic strength by volume of the table wines to be distilled ;

(b) the name and address of the producer ;

(c) the place where the wine is stored ;

(d) the name of the distiller or of the distillery ;

(e) the address of the distillery.

2. The contracts referred to in Article 2 (1) shall not be valid under this Regulation unless they are approved by the intervention agency of the Member State in which the wine is held when the contract is concluded.

3. Where distillation takes place in a Member State other than that in which the contract is approved, the intervention agency which approved the contract shall forward a copy of it to the intervention agency of the first Member State.

Article 4

1. Producers :

— who themselves possess distillation plants and intend to carry out the distillation referred to in Article 1, or

— who intend to have their wine distilled on their behalf in an approved distiller's plant

shall so inform the intervention agency of the Member State on whose territory their winery is located by means of a declaration of delivery for distillation. If the distillation plant is located in another Member State, they shall also send the intervention agency of that Member State a copy of the declaration for information.

The declaration referred to in the first subparagraph shall be submitted to the competent intervention agency within the period specified in Article 2 (1).

2. For the purposes of this Regulation the contract referred to in Article 2 (1) shall be replaced :

— in the case specified in the first indent of the first subparagraph of paragraph 1, by the declaration,

— in the case specified in the second indent of the first subparagraph of paragraph 1, by the declaration accompanied by a contract for delivery for distillation on the producer's behalf concluded between the producer and the distiller.

3. The declaration referred to in paragraph 1 and the contract referred to in the second indent of paragraph 2 shall specify :

(a) the quantity, colour and actual alcoholic strength by volume of the wines to be distilled ;

(b) the name and address of the producer ;

(c) the place where the wine is stored ;

(d) the address of the distillery.

4. The declaration referred to in paragraph 1 shall not be valid under this Regulation unless it is approved by the intervention agency of the Member State on whose territory the producer's winery is located within the period specified in Article 3 (2).

5. In the case referred to in the first indent of the first subparagraph of paragraph 1, a sample of the wine to be distilled shall be taken, under the supervision of an official body of the Member State on whose territory the producer's winery is situated, for analysis by an official laboratory of its actual alcoholic strength by volume, total acidity, volatile acidity and sulphur dioxide content.

The producer shall forward the results of this analysis, certified by an official body, to the intervention agency of the Member State where distillation is to take place.

6. A representative of an official body shall check the quantity of wine distilled and the date of distillation.

Article 5

1. The intervention agency responsible for the approval of contracts and declarations shall inform those concerned, not later than one month from the date of receipt of the contract or declaration, whether or not it has been approved.

2. The wine may not be distilled until the contract or declaration covering it has been approved.

3. Distillation operations may not commence before 1 May 1983 not take place after 30 September 1983.

4. The product obtained from the distillation referred to in Article 1 shall have an alcoholic strength of 86 % vol or more or 85 % vol or less.

Article 6

1. The minimum purchase price for wines for distillation shall be :

— 2,68 ECU per % vol per hectolitre for table wines of types R I and R II and for table wines in close economic relationship with those types of table wine,

— 2,48 ECU per % vol per hectolitre for table wines of type A I and for table wines in close economic relationship with that type of table wine,

— 5,58 ECU per % vol per hectolitre for table wines of type A II.

2. The prices specified in paragraph 1 shall apply to bulk merchandize ex producer's premises.

Article 7

The intervention agency shall pay aid for wine distilled.

Where the product obtained from distillation has an alcoholic strength of 85 % vol or less, the amount of aid shall be :

— 2,07 ECU per % vol per hectolitre for table wines of types R I and R II and for table wines in close economic relationship with those types of table wine,

— 1,87 ECU per % vol per hectolitre for table wines of type A I and for table wines in close economic relationship with that type of table wine,

— 4,97 ECU per % vol per hectolitre for table wines of type A II.

Where the product obtained from distillation has an alcoholic strength of 86 % vol or more, the amount of aid shall be :

— 2,09 ECU per % vol per hectolitre for table wines of types R I and R II, and for table wines in close economic relationship with those types of table wine,

— 1,89 ECU per % vol per hectolitre for table wines of type A I and for table wines in close economic relationship with that type of table wine,

— 4,99 ECU per % vol per hectolitre for table wines of type A II.

Article 8

For the payment of the minimum purchase price for wines and for the payment of aid by the intervention agency, one or other of the procedures laid down in Articles 9 and 10 shall be applied, at the choice of the Member States.

Article 9

1. The minimum purchase price referred to in Article 6 (1) shall be paid by the distiller to the producer not later than three months from the date of entry into the distillery :

— of the total quantity of wine covered by the contract, when a single delivery is made,

— of each consignment of wine, when delivery of the wine covered by the contract is made in stages.

2. The intervention agency shall pay the distiller the aid provided for in the first paragraph of Article 7 not later than three months from the date of submission of proof that the total quantity of wine specified in the contract has been distilled.

The distiller shall supply the intervention agency with proof that he has paid the minimum purchase price within the period specified in paragraph 1. If such proof is not supplied within four months of the date of submission of the proof referred to in the first subparagraph, the amounts paid shall be recovered by the intervention agency.

However, if the distiller supplies the said proof within two months of expiry of the period specified, the amount to be recovered shall be equal to 20 % of the sum paid.

Article 10

1. Not later that one month from the date of entry into the distillery :

— of the total quantity of wine covered by the contract, when a single delivery is made,

— of each consignment of wine, when delivery of the wine covered by the contract is made in stages,

the distiller shall pay the producer at least the difference between the minimum purchase price referred to in Article 6 (1) and the aid referred to in the first paragraph of Article 7 (1).

2. Not later than one month from the date of submission of proof that the total quantity of wine covered by the contract has been distilled, the intervention agency shall pay the producer the aid referred to in the first paragraph of Article 7 (1).

Article 11

1. The distiller in the case referred to in Article 9, or the producer in the case referred to in Article 10, may ask for an amount equal to the aid referred to in the second paragraph of Article 7 to be paid to him by way of advance on condition that he has provided a security equal to 110 % of the said amount in the name of the intervention agency.

2. The security shall be provided in the form of a guarantee by an establishment meeting the criteria laid down by the Member State to which the intervention agency is responsible.

3. The advance shall be paid not later than three months from the date on which proof is furnished that the security has been provided and, in any case, from the date of approval of the contract or declaration.

4. Subject to Article 13, the security referred to in paragraph 1 shall be released only if, not later than 29 February 1984, proof is furnished :

— that the total quantity of wine covered by the contract has been distilled,

— and, if the advance has been paid to the distiller, that the latter has paid the producer the minimum purchase price referred to in Article 6 (1) within the period specified.

However, if the proofs referred to in the first subparagraph are furnished after the date specified therein but before 1 July 1984 the amount to be released shall be 80 % of the security, the difference being forfeit.

If such proofs are not furnished before 1 July 1984, the security shall be forfeit in its entirety.

5. When the security is released, the intervention agency shall settle the balance of the amount by making the adjustments necessary to take account of the margins specified in Article 12.

Article 12

1. For wine delivered to the distillery a margin of 1 % vol more or less than the actual alcoholic strength specified in the contract or in the declaration shall be permitted provided that the wine has an actual alcoholic strength of more than 9,5 % vol.

For the quantity of wine actually delivered to the distillery a margin of 10 % less and 5 % more than the quantity specified in the contract or declaration shall be permitted, provided that the quantity actually delivered is not less than the quantity referred to in the third subparagraph of Article 2 (2).

2. The intervention agency shall pay the aid referred to in Article 7 for the quantity of wine which has actually been distilled, within the margins specified in paragraph 1.

Article 13

Where, owing to chance circumstances or *force majeure*, all or some of the wine covered by a contract or declaration cannot be distilled, the distiller or the producer shall immediately so inform :

— the intervention agency of the Member State on whose territory the distillation plant is located, and

— if the producer's winery is located in another Member State, the intervention agency of that Member State.

In such cases, the intervention agency shall pay the aid provided for in Article 7 in respect of the quantity of wine which has actually been distilled.

Article 14

Wine intended for distillation as provided for in Article 1 (1) may be fortified for distillation by the distiller or by an approved processor other than the producer.

If the operation is carried out by a processor, Articles 1 and 5 to 13 shall apply, subject to the provisions of the following Articles.

Article 15

1. In the case referred to in the second paragraph of Article 14, the contracts referred to in Article 2 shall be concluded between a producer and a processor.

2. The contracts shall require the processor :

(a) to purchase the quantity of wine specified therein and to process it into wine fortified for distillation ;

(b) to deliver the wine fortified for distillation to an approved distiller ;

(c) to pay the producer not less than the price specified in Article 6 (1).

The information referred to in Article 3 (1) (d) and (e) shall apply *mutatis mutandis* to a processor fortifying wine for distillation and to the plant where such processing takes place.

Article 16

1. In the case referred to in the second paragraph of Article 14, fortification of wine for distillation may take place only on the territory of the Member State where the producer's winery is located and before 1 September 1983.

2. The fortification of wine for distillation, as referred to in paragraph 1, shall be subject to official supervision. For this purpose :

— the document(s) and register(s) provided for in Article 53 of Regulation (EEC) No 337/79 shall state the increase in actual alcoholic strength by volume, expressed as % vol, giving the strength before and after the addition of the distillate to the wine,

— before the wine is fortified for distillation, a sample shall be taken under the supervision of an official body for analysis by an official laboratory, or by a laboratory operating under official supervision, of its actual alcoholic strength by volume. Two copies of the results of this analysis shall be sent to the processor fortifying the wine for distillation, who shall forward one copy to the intervention agency of the Member State where the wine is to be fortified for distillation.

3. Member States may restrict the places at which wine may be fortified for distillation if such restriction is necessary to ensure the most appropriate form of supervision.

Article 17

In the case referred to in the second paragraph of Article 14, the price referred to in Article 6 (1) shall be paid by the processor not later than three months from the date on which the total quantity of wine appearing in the contract entered his premises.

Article 18

In the case referred to in the second paragraph of Article 14, the wine fortified for distillation shall be distilled before 1 November 1983. The product obtained from the distillation or wine fortified for that purpose shall have an alcoholic strength of 85 % vol or less.

Article 19

1. The intervention agency of the Member State where the wine was fortified for distillation shall pay the processor the amount specified in the second paragraph of Article 7 in accordance with the procedures laid down in Articles 9 (2) or 11.

2. The aid shall be calculated per hectolitre and per % vol of actual alcoholic strength of the wine before it was fortified for distillation.

3. The margins specified in Article 12 shall apply to the quantities of wine delivered to the processor's premises.

4. The aid shall be paid for the quantity of wine which, after being fortified for distillation, has actually been distilled.

Article 20

For the purposes of this Regulation 'approved distiller' shall mean a distiller included in a list compiled by the competent authorities of the Member States.

A person on whose behalf distillation is carried out shall be treated in the same way as a distiller within the meaning of the first paragraph. Such distillation must be carried out by an approved distiller.

For the purposes of this Regulation 'approved processor' shall mean a processor included in a list to be compiled by the competent authorities of the Member States.

Approval of a distiller or of a processor shall be withdrawn if he does not pay the producer the minimum purchase price laid down in Article 6. Approval may be withdrawn if the distiller or processor does not fulfil the other obligations incumbent upon him pursuant to Community provisions, and in particular the obligations relating to notification.

Article 21

1. Distillers shall send the intervention agency, not later than the 10th day of each month, a record of the quantities of wine distilled during the previous month, specifying the quantities, expressed as pure alcohol, of the products they have obtained, giving separate figures for those of 86 % vol or more and those of 85 % vol or less.

2. Member States shall inform the Commission by telex, not later than the 20th day of each month, for the previous month, of the quantities of wine distilled and the quantities, expressed as pure alcohol, of products obtained, differentiating between the latter in accordance with paragraph 1.

3. Member States shall report, not later than 1 July 1984, cases in which the distiller or the processor has failed to meet his obligations and the measures taken in consequence.

Article 22

1. The intervention agencies responsible for applying this Regulation shall be those appointed by the Member States in accordance with Article 8 of Council Regulation (EEC) No 343/79 (1).

2. Without prejudice to Articles 3 (2), 4 (4) and 19 (1), the competent intervention agency shall be that of the Member State in whose territory distillation took place.

Article 23

Member States shall take the measures necessary to ensure that this Regulation is applied, in particular measures to prevent the diversion of table wine from its end use of distillation. To this end Member States may stipulate that an indicator be used.

Member States may not, because of the presence of an indicator, prevent the movement within their territory of a wine intended for distillation or of distilled products obtained from such wine.

Article 24

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

(1) OJ No L 54, 5. 3. 1979, p. 64.

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

Done at Brussels, 9 March 1983.

For the Commission

Poul DALSAGER

Member of the Commission