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COUNCIL REGULATION (EEC) No 2262/84

of 17 July 1984

laying down special measures in respect of olive oil

(OJ L 208, 3.8.1984, p. 11)

Amended by:

		Official Journal		
		No	page	date
►M1	Council Regulation (EEC) No 3788/85 of 20 December 1985	L 367	1	31.12.1985
►M2	Council Regulation (EEC) No 3386/85 of 3 November 1986	L 310	17	5.11.1986
►M3	Council Regulation (EEC) No 3462/87 of 17 November 1987	L 329	2	20.11.1987
►M4	Council Regulation (EEC) No 3880/88 of 12 December 1988	L 346	12	15.12.1988
►M5	Council Regulation (EEC) No 200/90 of 22 January 1990	L 22	6	27.1.1990
►M6	Council Regulation (EEC) No 593/92 of 3 March 1992	L 64	1	10.3.1992
►M7	Council Regulation (EC) No 533/97 of 17 March 1997	L 83	1	25.3.1997

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COUNCIL REGULATION (EEC) No 2262/84
of 17 July 1984
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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

Whereas Article 5 of Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats [4], as last amended by Regulation (EEC) No 2260/84 [5], introduced a system of production aid for olive oil; whereas this aid in respect of areas under olives at a certain date is granted to growers who are members of the producer organizations specified in Article 20c (1) of Regulation (EEC) No 136/66/EEC and whose average production is at least 100 kilograms of oil per marketing year and to other growers on the basis of the number and production potential of olive trees and of the yields of such trees, as determined according to a standard method, and provided that the olives produced have actually been harvested;

Whereas experience has shown that, despite the existence of rules providing for numerous specific controls, there are problems as regards ensuring timely and effective control; whereas this could lead to an unwarranted financial burden on the Community;

Whereas, in the present situation, special measures should therefore be laid down to ensure that the production aid scheme is applied correctly and in a uniform manner;

Whereas experience has shown administrative structures in the producer Member States to be inadequate to implement the controls provided for in the Community rules; whereas these Member States must therefore set up administratively autonomous bodies to perform these tasks; whereas, since the Member States are required to set up at short notice special structures to perform tasks going beyond the controls to be undertaken by Member States pursuant to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy [6], as last amended by Regulation (EEC) No 3509/80 [7], provision should be made for financial contribution from the Community over a certain period;

Whereas there is a relationship between effective control arrangements and the sanctions applicable in cases where a breach of the regulations comes to light; whereas the present arrangements concerning sanctions should be stiffened and supplemented in order to produce a greater deterrent effect, having regard to the specific characteristics of the common organization of the market in olive oil; whereas, accordingly, Member States should apply a system of sanctions in cases where discrepancies in connection with the production aid scheme come to light; whereas, in order to ensure that the sanctions in question are applied properly and in a uniform manner, certain specific cases should be defined in which sanctions are applicable,

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(1) OJ No C 249, 17. 9. 1983, p. 5.
(2) OJ No C 104, 16. 4. 1984, p. 92.
(3) OJ No C 23, 30. 1. 1984, p. 20.
(4) OJ No 172, 30. 9. 1966, p. 3025/66.
(5) OJ No L 208, 3. 8. 1984, p. 1.
(6) OJ No L 94, 28. 4. 1970, p. 13.
(7) OJ No L 367, 31. 12. 1980, p. 87.

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HAS ADOPTED THIS REGULATION:

Article 1

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1. Each producer Member State shall, in accordance with its legal structure, set up a specific agency for the purpose of carrying out certain activities and checks in connection with Community aid for olive oil, except for export refunds.

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However, Member States whose production is less than 3000 tonnes over a reference period to be determined shall not be required to set up an agency. In that case the Member States concerned shall take all requisite measures to ensure that the tasks of the agency mentioned in this Article are carried out.

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2. In order to ensure that Community rules in respect of olive oil are correctly applied, an agency as referred to in paragraph 1 shall, in accordance with the work schedule referred to in paragraph 4:

— check that the work of the producer organizations and associations complies with Council Regulation (EEC) No 2261/84 of 17 July 1984 laying down general rules on the granting of aid for the production of olive oil and of aid to olive oil producer organizations [1];

— verify the accuracy of the data set out in the crop declarations and aid applications, without prejudice to the checks carried out by the Member State pursuant to Article 14 of Regulation (EEC) No 2261/84;

— conduct checks of approved mills;

— carry out checks on the end-use of olive oil and olive-residue oil and on the end-use of their by-products;

— monitor the approved packaging plants, in accordance with Article 7 of Council Regulation (EEC) No 3089/78 of 19 December 1978 laying down general rules in respect of aid for the consumption of olive oil [2] and, where necessary, the professional bodies recognized under Article 11(3) of Regulation No 136/66/EEC;

— collect, verify and process, at national level, the data required for ascertaining the yields mentioned in Article 18 of Regulation (EEC) No 2261/84;

— carry out checks, if need be, on the origin of imported olive oil and olive-residue oil.

On its own initiative or at the Commission's request, the Member State may instruct the agency, in accordance with the work schedule referred to in paragraph 4, to:

— conduct statistical surveys into the production, processing and consumption of olive oil and olive-residue oil;

— monitor the buying-in, storage and sale of olive oil by the intervention agencies referred to in Articles 12 and 13 of Regulation No 136/66/EEC;

— monitor the storage operations carried out under Article 20 d (3) of Regulation No 136/66/EEC;

([1]) OJ No L 208, 3. 8. 1984, p. 3. Regulation last amended by Regulation (EEC) No 3500/90 (OJ No L 338, 5. 12. 1990, p. 3).

([2]) OJ No L 369, 29. 12. 1978, p. 12. Regulation last amended by Regulation (EEC) No 3461/87 (OJ No L 329, 20. 11. 1987, p. 1).

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— monitor the firms manufacturing preserved products in accordance with Article 8 of Council Regulation No 591/79 of 26 March 1979 laying down general rules concerning the production refund for olive oils used in the manufacture of certain preserved foods [1];

— conduct specific surveys in the olive oil sector.

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3. The agency shall be given full administrative autonomy. It shall be given full powers by the Member State concerned to carry out the tasks specified in paragraph 2.

Its staff shall consist of officials, the number and level of training of whom shall be suited to the tasks referred to above.

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The Commission may take part in the discussions held by the agency's management. Its representative shall not vote.

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4. Before the beginning of each marketing year, the Member State concerned shall, acting on a proposal from the agency, draw up budget estimates and a work schedule designed to ensure that ►M6 the Community rules in respect of olive oil are ◄ is (SIC! are) correctly applied; the budget and schedule shall be forwarded by the Member State to the Commission. The Commission may request the Member State, without prejudice to the responsibilities of the latter, to make any change in the provisional budget or work schedule which it considers appropriate.

Persons designated by the Commission may at any time monitor any of the work carried out by the agency,

The agency shall submit to the Member State and the Commission regular reports on the work which it has carried out. Such reports shall mention any problems encountered and, where appropriate, suggestions as to how to improve the checking arrangements.

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Member States shall act upon the agency's findings as promptly as possible.

They shall regularly communicate to the Commission details of the action taken and the sanctions applied as a result of the agency's findings on the basis of its checks.

The communication shall not affect the application of Article 3 of Council Regulation (EEC) No 595/91 of 4 March 1991 concerning irregularities and the recovery of sums wrongly paid in connection with the financing on the common agricultural policy and the organization of an information system in this field and repealing Regulation (EEC) No 283/72 [2].

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5. Over a period of five years from 1 November 1984, the following percentages of the agency's actual expenditure shall be chargeable to the general budget of the European Communities:

— in the case of Italy, 100 % for the first three years, up to a maximum of Ecu 14 million, and 50 % for the fourth and fifth years,

— in the case of Greece, 100 % up to a maximum of Ecu 7 million.

Over a period of three years from 1 November 1989, 50 % of the actual expenditure of the Italian and the Greek agencies shall be chargeable to the general budget of the European Communities.

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(1) OJ No L 78, 30. 3. 1979, p. 2. Regulation last amended by Regulation (EEC) No 2903/89 (OJ No L 280, 29. 9. 1989, p. 3).

(2) OJ No L 67, 14. 3. 1991, p. 11.

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In the case of Spain and Portugal, 100 % of the agency's actual expenditure during the period from 1 March 1986 to 31 October 1990 shall be covered by the general budget of the European Communities up to a maximum of Ecu 9 300 000 for Spain and Ecu 4 700 000 for Portugal. During the period from 1 November 1990 to 31 October 1992, 50 % of the expenditure in question shall be covered by the said budget.

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Over a period of five years from 1 November 1992, 50 % of the agency's actual expenditure shall be chargeable to the general budget of the European Communities.

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50 % of the agencies' actual expenditure for the 1997/1998 marketing year shall be covered by the general budget of the European Communities.

Before 1 October 1997, the Commission shall consider the need to maintain the Community contribution to the agencies' expenditure and, where appropriate, shall present a proposal to the Council. In accordance with the procedure provided for in Article 43 (2) of the Treaty, the Council shall decide before 1 January 1998 on any financing of the expenditure in question.

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6. The annual amount representing the actual expenditure referred to in paragraph 5 shall be decided upon by the Commission on the basis of the particulars provided by the Member States concerned. The amount in question shall be granted when the Commission is satisfied that the agency ►M6 ——— ◄ has performed the work assigned to it.

In order to facilitate ►M6 ——— ◄ operation of the agency, the amount in question may be paid in advance in the form of instalments during the year in question, in accordance with the agency's annual budget, the latter being drawn up with the agreement of the Member State and the Commission before the end of October of each following year.

Article 2

Under Article 11a of Regulation No 136/66/EEC, producer Member States shall take specific and appropriate measures in order to penalize any breaches of the production-aid arrangements, particularly where it has been noted that:

(a) the figures which appear in the crop declaration referred to in Article 3 of Regulation (EEC) No 2261/84 do not correspond to the actual situation;

(b) the quantity of oil eligible for aid is less than that applied for by growers ►M6 ——— ◄ who are entitled to aid in relation to the quantity of olive oil actually produced;

(c) a producer organization or an association of such organizations has not fulfilled the obligations arising under this Regulation;

(d) a mill has not fulfilled the obligations arising under ►M6 Regulation (EEC) No 2261/84 ◄.

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Article 2a

Under Article 11a of Regulation No 136/66/EEC, Member States shall take specific and appropriate measures to apply sanctions in the event of any breaches of the consumption aid arrangements, particularly where it is noted that:

— an approved packaging plant has not fulfilled the obligations arising under Regulation (EEC) No 3089/78, in particular in the cases provided for in Article 3;

— a recognized professional organization has not fulfilled the obligations arising under the said Regulation.

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Member States, where they are concerned, shall take specific and appropriate measures to apply sanctions in the event of any breaches of the arrangements set out in Articles 12, 13, 20 a and 20 d of Regulation No 136/66/EEC.

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Article 3

1. For the purpose of implementing the provisions of Article 2, the Member States shall apply the following measures at least:

(a) in the case referred to in Article 2 (a), where the inaccurate crop declaration includes an increase in the olive oil production potential in question which does not correspond to the actual situation, the grower concerned must pay an amount which is related to the resulting increase in potential and is sufficiently dissuasive;

(b) in the case referred to in Article 2 (b), the Member State concerned shall recover any amounts which may have been paid in error in respect of the aid and the grower concerned must pay an amount which is sufficiently dissuasive and is related to the amount of the aid applied for in respect of the quantity of oil not recognized as eligible.

2. In the cases referred to in paragraph 1, and without prejudice to Article 20c of Regulation No 136/66/EEC, if the producer organization to which the grower belongs did not in accordance with its obligations correctly check the individual application for aid and the crop declaration, it shall be jointly and severally liable for payment of the amounts referred to in paragraph 1.

3. Where, in cases referred to in paragraph 1, the irregularities recorded have minimal repercussions, the Member States concerned need not require growers to pay the amounts referred to in paragraph 1.

Article 4

1. Where a producer organization or an association of such Organizations has failed to carry out the checks for which it is responsible under Articles 6, 8 and 10 of Regulation (EEC) No 2261/84, the Member State concerned shall withdraw recognition for a period of between one and five marketing years.

2. Without prejudice to Article 2, if a check at a mill shows irregularities including a substantial difference between the quantities of olives pressed or oil produced and the quantities shown in the stock records, or inadequacy in the stock records, or in communication thereof, the Member State concerned shall withdraw approval from the mill in question for a period of between one and five marketing years.

3. For the purpose of determining the period for which recognition or approval is to be withdrawn, the competent authority shall take into account both the gravity and the duration of the infringement.

4. Throughout the period covered by the withdrawal of recognition or approval referred to in paragraphs 1 and 2, no new recognition or approval may be granted by the Member State concerned following an application intended to circumvent the sanction imposed.

Should the withdrawal of a mill's approval have serious consequences for the pressing facilities in a given production zone, it may be decided to allow the mill to operate under special arrangements.

Article 5

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC.

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Article 6

Member States shall communicate to the Commission the measures they have taken pursuant to this Regulation.

Article 7

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

It shall apply from 1 November 1984.

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