COMMISSION REGULATION (EEC) No 147/85

of 18 January 1985

laying down for the 1984/85 wine year detailed implementing rules for the distillation referred to in Article 41 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 1208/84 (2), and in particular Articles 41 (7) and 65 thereof,

Whereas the distillation operations referred to in Article 41 of Regulation (EEC) No 337/79 must be performed in accordance with Council Regulation (EEC) No 2179/83 of 25 July 1983 laying down general rules for distillation operations involving wine and the by-products of wine-making (3), as amended by Regulation (EEC) No 2687/84 (4);

Whereas it is necessary to define, firstly, the various factors enabling the total quantities of table wine to be distilled for the wine year to be determined and, secondly, the various categories of producer which are subject to the obligation to distil and those which are exempted in view of the disproportion between the administrative costs and the quantity of wine to be distilled;

Whereas Article 41 (3) of Regulation (EEC) No 337/79 lays down that the quantity to be distilled by each producer is to be equal to a percentage of his table wine production; whereas this percentage must be adjusted by reference to each producer's yield per hectare in relation to the normal yield for the different Community zones or parts thereof; whereas it is necessary to ensure that the measure is easy to apply and to take account of the information supplied by each Member State; whereas this indicates that average yields vary greatly and are around 100 hectolitres per hectare in the northern part of the Community, 70 hectolitres in the centre and some southern areas and 45 hectolitres in the rest of the Community; whereas the territory of the Community should therefore be divided into three production regions;

Whereas Commission Regulation (EEC) No 2102/84 of 13 July 1984 on harvest, production and stock declarations relating to wine-sector products (5), as amended by Regulation (EEC) No 2459/84 (6), provided for Member States to notify their table wine production to the Commission broken down in accordance with certain yield classes; whereas it appears reasonable to use these yield classes as the basis for adjusting producers' obligations;

Whereas the particular production structures and the administrative difficulties encountered in Greece justify the introduction in that Member State of a compulsory distillation scheme which, while enabling quantitative results similar to those arising from the application of the general scheme to be attained, restricts the measure to those producers with a sufficient quantity of table wine and authorizes the Greek Government to fix itself the percentages of table wine production to be delivered for distillation by the producers concerned; whereas the percentages thus fixed must ensure equal treatment for all concerned and be based on the criteria laid down in Article 41 of Regulation (EEC) No 337/79;

Whereas, in the absence of a Community definition of rosé wine and in the interest of clarity, it should be specified that rosé table wines are accorded the same treatment as red table wines because of the close economic relationship between them;

Whereas it is necessary to determine the table wines which, for the purposes of this measure, are regarded as being in close economic relationship with each of the types of table wine;

Whereas the rules for checking the characteristics of wine delivered for distillation laid down in Regulation (EEC) No 2179/83 apply only to individual deliveries and do not cover the problem of deliveries made jointly by several producers; whereas, however, the latter situation is likely to occur frequently in view of the small volumes to be delivered by some producers

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 115, 1. 5. 1984, p. 77.
(3) OJ No L 212, 3. 8. 1983, p. 1.
(4) OJ No L 255, 25. 9. 1984, p. 1.
(5) OJ No L 194, 24. 7. 1984, p. 1.
(6) OJ No L 231, 29. 8. 1984, p. 5.

who are subject to compulsory distillation ; whereas it therefore appears advisable to provide that, in such cases and in view of the diversity of situations in the different Member States, the characteristics of the wine delivered are to be checked in accordance with national provisions ;

Whereas, in order for the measures to be as effective as possible, it is necessary to lay down certain time limits for producers and distillers for performing the operation ;

Whereas, in accordance with Article 41 (5) of Regulation (EEC) No 337/79, distillers may either receive aid for the product to be distilled or deliver the product obtained by distillation to the intervention agency ; whereas the amount of the aid must be fixed on the basis of the criteria in Article 16 of Regulation (EEC) No 2179/83 ; whereas in order to prevent the production of poor-quality spirits it is necessary, in the absence of Community provisions on the subject, to provide that the spirits produced must comply with the national provisions in force ;

Whereas, in accordance with Article 17 of Regulation (EEC) No 2179/83, in order to receive the aid applicants must submit an application accompanied by a number of supporting documents ; whereas, in order to ensure that the system functions uniformly in all the Member States, it is necessary to lay down time limits for the submission of applications, for the payment of the aid due to the distiller and for the presentation of proof that the buying-in price has been paid ;

Whereas the price to be paid by the intervention agencies for the products delivered to them must be fixed on the basis of the criteria in Article 18 (2) of Regulation (EEC) No 2179/83 ;

Whereas the wine which has to be delivered for the distillation referred to in Article 41 of Regulation (EEC) No 337/79 may be fortified for distillation ; whereas the provisions applicable to the distillation operations should therefore be adopted, in accordance with the rules laid down in Articles 25 and 26 of Regulation (EEC) No 2179/83 ;

Whereas, to enable the Commission to have an overall view of compliance with obligations in respect of the distillation referred to in Article 41 of Regulation (EEC) No 337/79, the Member States concerned must inform it regularly, on the basis of communications from distillers, of the progress and results of the distillation operations ;

Whereas the Management Committee for Wine has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION :

TITLE I

Definitions

Article 1

For the purposes of Article 41 (1) and (2) of Regulation (EEC) No 337/79 the following definitions shall apply :

(a) 'availabilities recorded at the beginning of the wine year' : the quantity of table wine equal to the sum of the wine stocks and table wine production figures given in the forward estimate, reduced by :

— the quantity of table wine to be distilled under Article 39 (2) of Regulation (EEC) No 337/79 during the 1984/85 wine year,

— the anticipated production and trade losses for the 1984/85 wine year,

— the anticipated quantity of wine to be delivered for distillation under Regulations (EEC) No 2460/84 and, (EEC) No 2463/84 ;

(b) 'foreseeable end of year stocks' : the quantity of table wine equal to the difference between the availabilities recorded at the beginning of the wine year as defined at (a) and the normal utilization for the year ;

(c) 'normal utilization for the year' : the quantity of table wine equal to the sum of the quantities of table wine scheduled to be, during the 1984/85 wine year :

— sold for human consumption,

— processed into products of tariff heading No 22.06 or No 22.10,

— exported,

reduced by the quantity of wine to be imported classifiable as table wine ;

(d) 'total quantity to be distilled' : the quantity of table wine equal to the difference between the foreseeable end of year stocks as defined at (b) and the quantity corresponding to five months of normal utilization, increased by the quantity of wine covered by preventive distillation contracts and which is expected to be deducted from producers' obligations.

Article 2

1. For the purposes of this Regulation the territory of the Community shall be considered as consisting of three regions defined as follows :

— region 1 :

wine-growing zone A and the German part of wine-growing zone B,

— region 2 :

the French part of zone B, zone C I a, zone C I b, wine-growing zone C II and the Italian and French parts of wine-growing zone C III b,

— region 3 :

all the other wine-growing zones of the Community.

2. If distillation as mentioned in Article 41 (1) of Regulation (EEC) No 337/79 is decided on :

— the provisions of Title II shall be applicable in regions 1 and 2,

— the provisions of Title III shall be applicable in region 3.

TITLE II

Provisions applicable in regions 1 and 2

Article 3

1. When distillation as mentioned in Article 41 (1) of Regulation (EEC) No 337/79 is decided on, percentages of table wine production to be delivered for distillation shall be fixed for each class of producer mentioned below on the basis of the yield obtained in the 1984/85 wine year :

(a) producers who have obtained a yield per hectare of not more than :

— 60 hectolitres in region 1,

— 45 hectolitres in region 2 ;

(b) producers who have obtained a yield of :

— more than 60 but not more than 100 hectolitres in region 1,

— more than 45 but not more than 70 hectolitres in region 2 ;

(c) producers who have obtained a yield of :

— more than 100 but not more than 130 hectolitres in region 1,

— more than 70 but not more than 90 hectolitres in region 2.

2. The percentage referred to in paragraph 1 (c) shall also apply to producers who have obtained a yield of more than :

— 130 hectolitres in region 1,

— 90 hectolitres in region 2

for that part of their production for which this yield is obtained.

These producers shall also deliver for distillation percentages of their production in excess of those yields. These shall be established on initiation of the distillation provided for in Article 41 (1) of Regulation (EEC) No 337/79 progressively for each of the following categories :

(a) quantities corresponding to a yield per hectare :

— of more than 130 but not more than 160 hectolitres in region 1,

— of more than 90 but not more than 110 hectolitres in region 2 ;

(b) quantities corresponding to a yield

— of more than 160 but not more than 200 hectolitres in region 1,

— of more than 110 but not more than 140 hectolitres in region 2 ;

(c) quantities corresponding to yields higher than those specified at (b).

3. By way of derogation from Article 11 (3) of Regulation (EEC) No 2102/84, the rates for producers who have submitted harvest or production declarations which do not contain the information enabling the yield per hectare to be determined shall be those applicable to producers with the highest yield specified in paragraph 2.

4. The yields to be taken into account for the purposes of paragraphs 1 and 2 shall be :

(a) in region 1, the yield of the holding relative to wine production as a whole ;

(b) in region 2, the yield of the holding relative to table wine production alone.

Article 4

The following shall be exempt from the obligation specified in Article 41 of Regulation (EEC) No 337/79 ;

(a) producers in Member States whose table wine production does not exceed 60 000 hectolitres in the 1984/85 wine year ;

(b) those individual producers and wine cooperatives which, when the quantity of wine delivered for preventive distillation was taken into account, would be obliged to deliver for compulsory distillation less than 5 hectolitres of table wine.

The Member States, however, may exempt producers who have vinified in installations other than cooperative installations and have obtained during the 1984/85 wine year less than 50 hectolitres of table wine.

Article 5

The quantities of table wine to be delivered for distillation by wine cooperatives and by producer groups that have produced wine from the grapes of their members shall be determined on the basis of the production declaration for the 1984/85 wine year.

The quantities to be delivered by producers who have obtained table wine by vinification of purchased products shall be calculated by reference to the weighted average of the yields relating to each consignment of products purchased.

TITLE III

Provisions applicable in region 3

Article 6

1. In region 3 wine shall be delivered for compulsory distillation by producers, including cooperatives and associations of producers, who have produced in the 1984/85 wine year a quantity of table wine to be determined when the measure is activated.

2. The Greek Government shall set before 10 February 1985, and in accordance with the criteria in Article 41 (3) of Regulation (EEC) No 337/79,. the percentages of table wine production that the producers specified in paragraph 1 are to deliver for distillation, ensuring equality of treatment of producers subject to the obligation.

These percentages must guarantee distillation in region 3 as a whole of a quantity of table wine to be determined that is additional to the quantities delivered for the preventive distillation operation opened by Regulation (EEC) No 2460/84.

3. The Greek Government shall before 15 February 1985 notify the Commission of the provisions that it has adopted pursuant to paragraph 2.

TITLE IV

General provisions

Article 7

1. Persons subject to the obligation to deliver for distillation under Article 41 (1) of Regulation (EEC) No 337/79 shall calculate the quantities that they are required to deliver pursuant to Titles II and III and notify these quantities before 15 March 1985 to the intervention agency or any other competent authority of the Member State in which their holding is located.

Member States may, however, calculate and notify to producers the quantities to be delivered by each. Such notifications shall be made before 31 March 1985.

2. Member States shall compile a summary statement of the figures obtained pursuant to paragraph 1 and shall notify the Commission before 15 April 1985 of the quantity to be delivered for distillation by each of the classes specified in Article 3.

Article 8

1. Without prejudice to Article 14b of Regulation (EEC) No 337/79, the buying-in price referred to in Article 41 (4) of Regulation (EEC) No 337/79 shall be :

— 1,90 ECU per % vol of alcohol and per hectolitre for white table wine of type A I,

— 4,26 ECU per % vol of alcohol and per hectolitre for white table wine of type A II,

— 4,87 ECU per % vol of alcohol and per hectolitre for white table wine of type A III,

— 2,05 ECU per % vol of alcohol and per hectolitre for red table wine of types R I and R II,

— 3,05 ECU per % vol of alcohol and per hectolitre for red table wine of type R III.

2. The buying-in price referred to in paragraph 1 shall be paid by the distiller to the producer within three months of the day on which each consignment of table wine enters the distillery.

Article 9

1. The provisions of this Regulation relating to red table wine shall apply also to rosé table wine.

2. The provisions of this Regulation relating to a given type of table wine shall apply also to table wine that is in a close economic relationship with that type of table wine.

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

— A I, white table wine that is not of type A I, A II or A III,

— R I, red table wine with an actual alcoholic strength of not more than 12,5 % vol that is not of type R I and R III,

— R II, red table wine with an actual alcoholic strength of more than 12,5 % vol that is not of type R II and R III.

3. Should quantities of wine being delivered for distillation by a number of producers be transported together to the distillery the wine's characteristics, including quality, colour and alcoholic strength, shall be verified in accordance with the provisions adopted by the Member State.

Article 10

1. Persons subject to the obligation specified in Article 41 (3) of Regulation (EEC) No 337/79 may, in addition to table wine of their own production, deliver table wine bought from persons who themselves produced it.

They may also :

— carry out distillation in their own distillation facilities,

— arrange for distillation to be carried out in the facilities of an approved distiller working under contract.

2. Delivery of table wine shall be made :

— by 31 August 1985 at the latest if delivery is to a distillery,

— by 31 July 1985 at the latest if delivery is to a producer of wine fortified for distillation.

3. Subject to the provisions of Article 12 (3) distillation operations under Article 41 of Regulation (EEC) No 337/79 may not be carried out after 30 September 1985.

4. Distillers shall transmit to the intervention agency, by the tenth day of each month at the latest in respect of the previous month, a statement of the quantities of table wine distilled and of the quantities of products obtained, broken down in accordance with the categories specified in the first subparagraph of Article 3 (1) of Regulation (EEC) No 2179/83.

Article 11

1. Distillers may receive aid subject to the conditions set out in paragraph 2. The amount of the aid shall be as follows :

(a) where the product obtained by distillation corresponds to the definition of neutral spirits given in the Annex to Regulation (EEC) No 2179/83 :

— 1,55 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of type R I and R II,

— 2,57 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of type R III,

— 1,40 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A I,

— 3,79 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A II,

— 4,41 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A III ;

(b) where the product obtained by distillation is a wine spirit with the quality characteristics laid down by the relevant national provisions :

— 1,44 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of types R I and R II,

— 2,46 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of type R III,

— 1,29 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A I,

— 3,68 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A II,

— 4,30 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A III ;

(c) where the product obtained by distillation is a distillate or raw alcohol with an alcoholic strength of at least 52 % vol :

— 1,44 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of types R I and R II,

— 2,46 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of type R III,

— 1,29 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A I,

— 3,68 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A II,

— 4,30 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A III.

2. Distillers who wish to receive the aid specified in paragraph 1 shall by 31 October 1985 at the latest submit an application and the documents specified in Article 17 of Regulation (EEC) No 2179/83.

3. The intervention agency shall pay the aid referred to in paragraph 1 within three months at the latest of submission of the application and documents referred to in paragraph 2.

The distiller must, before 1 February 1986, provide the intervention agency with evidence that he paid the producer the buying-in price for the wine within the time limit laid down in Article 8 (2).

If evidence is not provided before 1 February 1986 the intervention agency shall recover the aid paid. If the evidence is presented before 1 May 1986, however, 20 % only of the aid shall be recovered.

If it is found that the distiller has not paid the producer the buying-in price the intervention agency shall, before 1 June 1986, pay the producer an amount equal to the aid, if necessary through the intervention agency of his Member State.

Article 12

1. Delivery to the intervention agency of products with an alcoholic strength of at least 92 % vol shall be made by 31 October 1985 at the latest or, if Article 11 (2) of Regulation (EEC) No 2179/83 applies, by the date set by the competent national authority.

2. The price to be paid by the intervention agency to the distiller for the product delivered shall be :

— 2,51 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of types R I and R II,

— 3,53 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of type R III,

— 2,36 ECU per % vol alcohol and per hectolitre if it was obtained from white table wine of type A I,

— 4,75 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A II,

— 5,37 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A III.

If the distiller has received aid under Article 11 the price shall be reduced by the amount of that aid.

If the distiller has not received such aid Article 11 (2) shall be applicable *mutatis mutandis.*

3. The prices given in paragraph 2 shall be for neutral spirits as defined in the Annex to Regulation (EEC) No 2179/83.

For other alcohol, the prices given in paragraph 2 shall be reduced by 0,11 ECU per % vol of pure alcohol and per hectolitre.

4. The distiller shall be paid by the intervention agency within three months at the latest of the day on which the alcohol was delivered.

The second, third and fourth subparagraphs of Article 11 (3) shall be applicable *mutatis mutandis.*

Article 13

1. In cases as referred to in Article 26 (1) of Regulation (EEC) No 2179/83 the contract or the declaration of delivery of wine for fortification for distillation shall be submitted for approval to the competent intervention agency by 30 June 1985 at the latest.

The intervention agency shall notify the producer of the outcome of the approval procedure within 15 days of the day on which the contract or declaration was submitted.

2. Fortification of wine for distillation may not take place after 31 August 1985.

3. The fortified wine may not be distilled until approval of the contract or declaration has been given but must be distilled by 30 September 1985 at the latest.

4. The fortifier shall send the intervention agency by the 10th of each month at the latest a statement of the quantities of wine delivered to him during the previous month.

5. Fortifiers of wine for distillation shall receive aid. This aid, calculated per hectolitre and per % vol of actual alcohol before the wine's conversion into wine fortified for distillation, shall be as follows :

— 1,41 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of types R I and R II,

— 2,41 ECU per % vol of alcohol and per hectolitre if it was obtained from red table wine of type R III,

— 1,26 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A I,

— 3,62 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A II,

— 4,23 ECU per % vol of alcohol and per hectolitre if it was obtained from white table wine of type A III.

In order to receive the aid the fortifier shall submit an application and the documents specified in Article 17 of Regulation (EEC) No 2179/83 to the competent intervention agency by 31 October 1985 at the latest.

The aid shall be paid within three months at the latest of the date of submission of evidence of lodging of the security referred to in Article 26 (4) of Regulation (EEC) No 2179/83 but in all cases after the date on which the contract or declaration was approved.

6. Subject to Article 23 of Regulation (EEC) No 2179/83 the security shall be released only if, by 28 February 1986 at the latest, evidence is provided :

— that all the wine covered by the contract or declaration has been fortified for distillation and distilled, and

— that the buying-in price for the wine was paid to the producer within the time limit specified in Article 8 (2).

If evidence is not provided by 28 February 1986 at the latest the intervention agency shall recover the aid paid. If it is presented before 1 June 1986, however, 20 % only of the aid shall be recovered.

If it is found that the fortifier has not paid the producer the buying-in price the intervention agency shall, before 1 July 1986, pay the producer an amount equal to the aid, if necessary, through the intervention agency of his Member State.

Article 14

1. Member States shall send the Commission, by the 20th day of each month for the previous month, a statement of :

— the quantities of table wine distilled under Article 41 of Regulation (EEC) No 337/79,

— the quantities of alcohol delivered to intervention agencies,

— the quantities of wine spirits produced and their alcoholic strength,

— the quantities of other products of at least 52 % vol alcoholic strength for which aid has been requested.

2. Member States shall notify the Commission by 31 March 1986 at the latest of cases where distillers or producers of wine fortified for distillation have not fulfilled their obligations and of the action being taken in consequence.

Article 15

Conversion into national currencies of the amounts given in this Regulation shall be at the representative rate applying for the wine sector on 1 September 1984.

Article 16

The reference period referred to in Article 6 (1) of Regulation (EEC) No 337/79 in connection with exclusion from the advantages of intervention operations shall, as far as the obligations specified in Article 41 of that Regulation are concerned for 1984/85, run from 1 January to 31 August 1985.

Article 17

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

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

Done at Brussels, 18 January 1985.

For the Commission

Frans ANDRIESSEN

Member of the Commission