COMMISSION REGULATION (EEC) No 953/85

of 10 April 1985

amending Regulation (EEC) No 147/85 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 798/85 (2), and in particular Articles 41 (7) and 65 thereof,

Whereas, under Article 3 (3) of Commission Regulation (EEC) No 147/85 (3), the percentages of table wine production to be delivered for compulsory distillation by producers who, in compliance with Commission Regulation (EEC) No 2102/84 of 13 July 1984 on harvest production and stock declarations relating to wine-sector products (4), as amended by Regulation (EEC) No 2459/84 (5), have submitted declarations which, however, do not contain the information enabling the yields per hectare to be determined, are those applicable to producers with the highest yields specified in Article 3 (2); whereas the calculation of percentages applicable to producers with the highest yields is based on a method involving yield classes, which cannot be applied in cases where the actual yields of holdings are not known; whereas, in addition, the Article referred to above does not provide measures applicable to producers who have not submitted declarations or have submitted declarations containing inaccurate information on the yield per hectare; whereas such producers are in a similar situation to that of producers whose declarations do not enable the said yield to be determined; whereas, as a consequence, the rates or yields to be used for these three categories of producers should be made standard; whereas, in view of the difficulties encountered by producers in the first year of application of Regulation (EEC) No 2102/84, the measures proposed should, in addition, be made more flexible and adjusted in order to take account of cases where only a slight disparity is found to exist between the actual yield and the declared yield, of the assumed good faith of the producers who have declared yields in excess of the actual yield and of the case of producers willing to provide the necessary information promptly enough to avoid interfering with the management of compulsory distillation; whereas, however, as regards the other producers, provision should be made for severe measures which, while based on different information in respect of region 1 and region 2, achieve the same result;

Whereas Article 7 of Regulation (EEC) No 147/85 provides that the quantities to be delivered for distillation must be notified by producers and Member States by certain dates; whereas in the first year of application of compulsory distillation, problems of interpretation of the texts have delayed the distribution of the necessary circulars in the Member States, which makes it impossible for the persons subject to the obligation to abide by the time limits laid down; whereas in these circumstances the time limits concerned must be extended;

Whereas Article 10 of Regulation (EEC) No 147/85 specifies the options available to producers as to when to start discharging their obligations; whereas, in order to facilitate the execution of compulsory distillation while ensuring the personal nature of the obligations concerned, it should be made clear that the obligation specified in Article 41 of Regulation (EEC) No 337/79 will be considered to have been discharged even where deliveries are carried out by producers other than the persons subject to the obligation, but that such persons must be identified;

Whereas Article 10 of Regulation (EEC) No 147/85 provides that persons subject to the obligation to deliver for distillation may, in addition, deliver table wine produced by other producers; whereas, in order to make the system provided for clearer, it should be stated that deliveries may be carried out jointly by various producers; whereas, owing to the fact that they no longer have sufficient quantities of table wine available, producers in region 1 will purchase and deliver jointly in other regions significant quantities of wine for distillation; whereas the total quantities to be distilled by this region are very small; whereas, in

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 89, 29. 3. 1985, p. 1.
(3) OJ No L 16. 19. 1. p. 25.
(4) OJ No L 194, 24. 7. 1984, p. 1.
(5) OJ No L 231, 29. 8. 1984, p. 5.

order to avoid disproportionate administrative costs, in these circumstances the requirements concerning administrative checks normally required should be made more flexible in region 1, while ensuring the individual nature of the obligations concerned, since the joint purchasing and distillation operations are carried out in the framework of organizations or groups capable of ensuring that member producers pay their share of the distillation costs in proportion to the obligations devolving on them ;

Whereas, in addition, provisions should be laid down to ensure that the quantities of wine delivered for distillation in compliance with the obligation of persons subject thereto correspond to the said obligation ;

Whereas Regulation (EEC) No 147/85 should be amended accordingly ;

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

Regulation (EEC) No 147/85 is hereby amended as follows :

1. Article 3 (3) is replaced by the following :

'3. Without prejudice to Article 10a of Regulation (EEC) No 2102/84 and by way of derogation from Article 11 (3) of that Regulation, those producers who :

— have not submitted harvest or production declarations as provided for in Regulation (EEC) No 2102/84, or

— have submitted declarations which do not contain the information enabling the yield per hectare to be determined, or

— have supplied information in their declarations indicating a yield lower than 90 % of the actual yield,

shall be subject to the following provisions :

(a) if, within the time limits specified in the first subparagraph of Article 7 (1), they provide the competent authorities with information enabling the actual yields to be determined, the quantities to be delivered for distillation shall be those resulting from the application of paragraphs 2 and 3, plus 15 % ;

(b) if, within the same time limit, they do not provide the competent authorities with the information enabling the actual yield to be determined :

— the percentage of table wine to be delivered for distillation in region 1 shall be 50 % of their production as determined by the said authorities,

— the yield to be applied in region 2 shall be 200 hl/ha.

Save as otherwise provided in (b), the yield to be applied shall be :

— that resulting from the harvest or production declarations for producers who have provided the information therein indicating yields higher than 110 % of the actual yields,

— the actual yield for other producers.

2. Article 7 is replaced by the following :

'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 until 15 April 1985 to the intervention agency or any other competent authority of the Member State in which their holdings are located.

The competent authorities may, however, calculate and notify to producers the quantities to be delivered by each. Such notifications shall be made until 30 April 1985.

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

3. Article 10 is replaced by the following :

'Article 10

1. Persons subject to the obligation to deliver for distillation under Article 41 (3) of Regulation (EEC) No 337/79 may, in addition to table wine of their own production, deliver table wine obtained 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. The obligation referred to in Article 41 of Regulation (EEC) No 337/79 shall be considered to be discharged even where the delivery of table wine is carried out by other persons who themselves produced it.

In such circumstances, the certificate issued by the distiller and referred to in Article 15 of Regulation (EEC) No 2179/83 shall indicate, in addition to the name and address of the producer who delivered the wine, the name and address of the producer subject to the obligation to deliver for distillation.

3. Where the first subparagraph of paragraph 1 is applied, the wine may be delivered jointly by various producers. If it is delivered for distillation by producer organizations or groups in region 1, proof of compliance by each member producer of the said organizations with his obligations shall consist of :

(a) either the certificate referred to in Article 15 of Regulation (EEC) No 2179/83, delivered by the distiller in his individual capacity ;

(b) or the following documents :

— a certificate of delivery for all the quantities supplied in accordance with Article 15 of Regulation (EEC) No 2179/83, by the distiller to the producer organization or group in his capacity as representative of the members.

This certificate must be authenticated by the intervention agency of the Member State in which the distillation took place, where the latter is not the same as the Member State of which the producer is a national ; and

— a certificate of the producer organization or group, authenticated by the Member State in which the organization or group has its registered office, stating that :

(i) the producer is a member of the producer organization or group which delivered the wine for distillation and that he has borne the costs related to the distillation in proportion to his obligation ;

(ii) the producer organization or group was authorized to discharge his obligations.

4. The Member States, in particular having regard to the cases where the first subparagraph of paragraph 1 and paragraph 2 are applied, shall take the necessary measures to ensure that the quantities of wine delivered in compliance with the obligation of persons subject thereto correspond to the said obligation.

However, in cases where the wine was obtained and delivered for distillation in a Member State other than that of which the producer subject to the obligation is a national :

— a certificate, issued by the authority of the Member State of the producer subject to the obligation referred to in Article 7, stating that the quantity concerned corresponds to the obligation of the person subject thereto, must be submitted to the distiller,

— the certificate referred to in Article 15 of Regulation (EEC) No 2179/83 shall be authenticated by the competent authority of the Member State in which the distillation took place,

— a copy of this certificate shall be forwarded by the said authority to the authority referred to in the first indent before 25 October 1985.

5. The delivery of table wine shall be carried out not later than :

— 31 August 1985 where it is delivered to a distillery,

— 31 July 1985 where it is delivered to a fortifier of wine for distillation.

6. The distillation operations under Article 41 of Regulation (EEC) No 337/79 may not be carried out after 30 September 1985.

Distillers shall forward to the intervention agency, not later than the 10th 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 2

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, 10 April 1985.

For the Commission

Frans ANDRIESSEN

Vice-President