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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2239/86

of 14 July 1986

on a specific common measure to improve vine-growing structures in Portugal

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 263 (2) of the 1985 Act of Accession provides in particular for the application in Portugal, from the date of accession, of Community rules in the socio-structural field, including those relating to producers' organizations ;

Whereas, to achieve the objectives of the common agricultural policy mentioned in Article 39 (1) (a) and (b) of the Treaty, special provisions adapted to the situation in the least-favoured agricultural areas must be taken at Community level ;

Whereas the vine-growing structures in Portugal must be improved in view of the present major structural imbalances, particularly as regards the general state of vineyards, the location and the dispersion of areas and the quality of the vine products ;

Whereas the imbalances on the wine market may be gradually eliminated only by a coherent series of measures ; whereas, consequently, provision should be made for Portugal to qualify both for measures relating to restructuring and for measures to encourage the abandonment of certain areas planted with vines ;

Whereas the measures for restructuring vineyards must not lead to an increase in areas planted with vines in Portugal ; whereas these measures should be confined to areas particularly suitable for vine-growing ;

Whereas Council Regulation (EEC) No 458/80 of 18 February 1980 on collective projects for the restructuring of vineyards (4), as last amended by Regulation (EEC) No 3827/85 (5), cannot apply to Portugal on account of the absence of a classification of vine-growing areas in that Member State ; whereas, in addition, it is not suited to Portuguese vine-growing structures, on account in particular of the limited size and the dispersion of vine-growing areas ;

Whereas provision should accordingly be made for a specific measure for Portugal, and whereas the restructuring measures should be extended to include the necessary support operations, such as land improvement and consolidation, and areas under vines intended for the production of table grapes ;

Whereas the restructuring measures can be implemented successfully only if aid is granted to compensate for the cost of restructuring work (restructuring aid) and for the income losses entailed by the restructuring operations (additional premium) ;

Whereas, in order to ensure maximum effectiveness for the vineyard restructuring operations, priority should be given to those operations which cover large areas carried out on a collective basis ; whereas, to this end, additional aid should be granted where restructuring operations are carried out by a group or on a collective basis ;

Whereas, in order to obtain the economic and qualitative results expected of the restructuring measures, vine-growers involved in restructuring operations should be afforded the requisite technical assistance, including assistance with the preparation of restructuring projects ;

Whereas the abandonment of certain areas under vines should be encouraged on account of the growing imbalance on the wine market and the need to reduce

(1) OJ No C 153, 19. 6. 1986, p. 5.
(2) Opinion delivered on 11 July 1986 (not yet published in the Official Journal).
(3) Opinion delivered on 3 July 1986 (not yet published in the Official Journal).

(4) OJ No L 57, 29. 2. 1980, p. 27.
(5) OJ No L 372, 31. 12. 1985, p. 1.

Community vine-growing potential; whereas, therefore, premiums for the permanent abandonment of certain areas planted with vines, varying with productivity, should be granted;

Whereas Council Regulation (EEC) No 777/85 of 26 March 1985 on the granting, for the 1985/86 to 1989/90 wine years, of permanent abandonment premiums in respect of certain areas under vines (1), as last amended by Regulation (EEC) No 3775/85 (2), provides for permanent abandonment premiums which are not adapted to the real price situation in Portugal;

Whereas funds available in Portugal are fairly limited; whereas provision should be made for a Community co-financing rate of 50 % of expenditure incurred in implementing restructuring measures and that rate should be raised to 70 % for expenditure incurred in implementing measures for the permanent abandonment of vine-growing where the results will reduce EAGGF Guarantee Section expenditure;

Whereas the achievement of such objectives should be encouraged via action combining the indispensable measures and involving a programme extending over several years;

Whereas it is the responsibility of the Commission, having obtained the opinion of the Standing Comittee on Agricultural Structures, to decide on the approval of a programme submitted by the Portuguese Republic;

Whereas it follows from the foregoing that the measures in question constitute a common measure within the meaning of Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (3), as last amended by Regulation (EEC) No 3769/85 (4),

HAS ADOPTED THIS REGULATION:

Article 1

With a view to contributing towards improving the situation in the wine sector in Portugal by improving the basic vine-growing structures on the one hand and by encouraging the permanent abandonment of certain areas planted with vines on the other, a common measure within the meaning of Article 6 (1) of Regulation (EEC) No 729/70 is hereby instituted.

TITLE I

Restructuring of vineyards

Article 2

1. In accordance with Articles 3 and 5, the Community shall grant aid for the common measure by providing finance through the Guidance Section of the European Agricultural Guidance and Guarantee Fund, hereinafter referred to as 'the Fund', for the following:

— measures to restructure vineyards intended for the production of wine or table grapes,

— various support measures connected with restructuring.

2. For the purposes of this Regulation, the restructuring operations shall comprise:

— the grubbing of vines on plots with a minimum area equivalent to that referred to in the second indent,

— the replanting of vines intended for the production of wines deemed equivalent to quality wines produced in specified regions or table wines and table grapes, of improved quality, by means of an appropriate selection of recommended vine varieties, on land whether or not located on the same holding with a minimum area of 0,25 hectares in the case of individual restructuring, 1 hectare in the case of group restructuring involving at least three vine-growers and 10 hectares in the case of collective restructuring involving at least 15 vine-growers, whether or not including land consolidation,

— the double grafting of vines under the conditions and with the vine varieties referred to in the second indent.

However, for the autonomous regions of Madeira and the Azores, the Commission may, at the request of the Member State, authorize, in accordance with the procedure laid down in Article 12, a reduction in the requisite minimum area.

3. For the purposes of this Regulation, support measures shall consist of:

— the production of replanting material in line with the requirements of the common measure,

— land improvement work, including drainage and anti-erosion measures, and work connected with land consolidation such as levelling, the creation of embankments, ditches and access roads or tracks and other work made necessary as a result of land consolidation,

— improvement of access roads or tracks to vineyards,

— land consolidation,

— such technical assistance as is essential for achieving the aims of the common measure.

4. Vineyards situated on the following types of land shall not qualify for restructuring aid:

— deep soil containing little coarse matter,

or

— land clearly unsuitable for vine-growing owing in particular to adverse natural soil conditions in the form of inadequate slopes, excessive humidity and adverse exposure,

or

(1) OJ No L 88, 28. 3. 1985, p. 8.
(2) OJ No L 362, 31. 12. 1985, p. 39.
(3) OJ No L 94, 28. 4. 1970, p. 13.
(4) OJ No L 362 31. 12. 1985, p. 17.

— land suitable for providing sufficient income with other crops which have normal outlets on the markets.

5. For the duration of the common measure, the measures for restructuring Portuguese vineyards shall not qualify for the Community aid provided for in Regulation (EEC) No 458/80.

Vine-growers who have received the permanent abandonment premium provided for in Title II may subsequently qualify for the aid for restructuring provided for in this Title only where the areas in respect of which the abovementioned abandonment premium was paid are not adjacent to the other areas of the holding.

Article 3

1. The financial contribution by the Community shall be granted only in the context of the implementation of a programme involving all the operations referred to in Article 2 (1). That programme shall be submitted to the Commission by the Portuguese Republic.

2. At the request of the Commission, the Portuguese Republic shall provide additional information for assessing the data provided for in Article 4.

3. The programme and any amendments to it shall be examined and approved after the Fund Committee has been consulted on the financial aspects in accordance with the procedure laid down in Article 12. When the programme is approved, the Commission shall determine, in agreement with the Member State, the information which must appear in the annual report on the application of this Regulation to be submitted to the Commission each year.

4. The duration of the programme shall not be less than that of the common measure.

Article 4

The programme referred to in Article 3 shall contain, in particular, information on the following :

(a) restructuring :

— a definition of the quality of soil suitable for restructuring,

— the estimated number of hectares of vineyard to have been restructured on completion of the programme and a timetable for the works,

— the location of the main areas of restructuring,

— the suitability of those areas for providing products of sound quality,

— details of the vine varieties, their origin and regional distribution,

— in the case of collective restructuring, the nature of the constraints imposed in order to ensure the effectiveness of the operations,

— the provisions contemplated in order to improve land distribution, i. e. land consolidation or other measures. In the latter case, arrangements to arrive at a parcelling ratio of at least 2 to 1 must be provided for,

— arrangements to ensure that the establishment of new vineyards takes the form solely of replanting, i. e. planting after grubbing operations carried out with a view to restructuring ;

(b) support measures :

— the provisions contemplated with a view to the production of selected replanting and grafting material,

— as regards land improvement, a description of the works planned for each major restructuring area,

— a summary of total expenditure broken down into the public, private and Community expenditure envisaged and a timetable showing such breakdown,

— the arrangements for providing the technical supervision which is essential for the success of the restructuring operations and for ensuring that new staff will be recruited only for carrying out the common measure.

Article 5

Investments qualifying for a financial contribution from the Community under Council Regulation (EEC) No 797/85 (1) or other common measures within the meaning of Article 6 (1) of Regulation (EEC) No 729/70 may not qualify for a financial contribution from the Fund under this Title.

TITLE II

Permanent abandonment of vine-growing

Article 6

1. In accordance with Articles 7 and 8, vine-growers cultivating areas under vines as referred to in Article 2 (4) shall qualify, on application, for a premium for the permanent abandonment of vine-growing.

2. The grant of the permanent abandonment premium shall entail for the vine-grower :

(a) forfeiture of the right to replant the area for which the premium is paid ;

(b) a reduction of the replanting right originating from any grubbing carried out on the residual vine-growing area of the holding after grant of the premium and exercised before the date of expiry of this Regulation. The reduction shall be equal to 20 % :

(c) compensation for the reduction provided for in (b) equal to 500 ECU per hectare of vineyard grubbed. Such compensation shall be paid, on application by the holder of the replanting right, by the Portuguese Republic when the right in question is exercised.

(1) OJ No L 93, 30. 3. 1985, p. 1.

3. Paragraph 2 (b) and (c) may be amended by the Council acting by a qualified majority on a proposal from the Commission.

4. The permanent abandonment premium shall be limited to an overall area of 15 000 hectares. It shall be granted in respect of a minimum area of 0,10 hectares.

5. The permanent abandonment premium may not be granted in respect of the following :

(a) areas under vines where infringements of national or Community provisions have been found to have been committed ;

(b) areas planted with vines which are no longer being tended ;

(c) areas planted with vines after the entry into force of this Regulation.

6. For the duration of the common measure, vine-growers may not qualify for the permanent abandonment premium provided for in Regulation (EEC) No 777/85.

Article 7

1. Applications for permanent abandonment premiums must be submitted to the departments designated by the Portuguese Republic not later than 31 December for the current wine year.

Applications relating to areas under wine grapes shall be accompanied by an official declaration stating the yield per hectare determined on the basis of the declared average yield of the applicant's holding and the production capacity of the vineyard ato be grubbed determined on the spot before grubbing by the competent Portuguese agency.

2. The grant of the premium shall be subject to a written declaration in which the applicant undertakes :

— by 31 May of the year following that in which the application is submitted, to grub, or cause to be grubbed, the vines on the areas for which the premium has been applied for,

— not to plant, on the holding to which the area for which the premium is received belongs, new vines within the meaning of Annex IVa (e) of 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 3805/85 (2), for 16 wine years following that in which the vines are grubbed,

— to declare each year during that period, where appropriate at the same time as his harvest, the area under which is in production or the area which is not yet in production.

3. The grant of the premium shall also be subject to the applicant :

— being entitled, when the application is submitted, to continue to cultivate the land in question during the period referred to in the second indent of paragraph 2,

— producing, if he does not fulfil the condition laid down in the first indent of this paragraph, a written undertaking by the owner of the land that he will guarantee that the obligations laid down in paragraph 2 are complied with or that he will comply with them personally.

If, after the grant of the premium, and in the course of the period referred to in the second indent of paragraph 2, all or part of the holding should pass to another party, the recipient of the premium or his assignees shall remain responsible for the successor's performance of the undertaking entered into by the recipient, unless :

— the successor enters into such an undertaking on his own account for the remainder of the period,

or

— the owner has given the undertaking provided for in the second indent of the first subparagraph of this paragraph.

4. The Portuguese Republic may decide to bring forward the dates referred to in the first subparagraph of paragraph 1 and the first indent of paragraph 2.

Article 8

1. For the grant of the permanent abandonment premium, areas under mixed crops shall be expressed as areas under specialized crops, using the customary conversion factor for the production area concerned.

2. The permanent abandonment premium shall be paid by the end of the calendar year following that in which the application for a premium was submitted, on condition that the applicant has provided evidence that grubbing has in fact taken place.

TITLE III

Financial and general provisions

Article 9

1. The following expenditure incurred by the Portuguese Republic shall be eligible for assistance from the Guidance Section of the Fund :

(a) in the case of restructuring operations within the meaning of Article 2 (2) and in respect of a maximum overall area of 30 000 hectares, aid granted in the form of :

— a restructuring aid per hectare intended to contribute towards covering the actual costs of restructuring work :

The amount of this aid shall be fixed at a maximum of :

— 2 500 ECU per hectare where restructuring involves grubbing of vines, soil preparation and replanting,

— 500 ECU per hectare where restructuring involves double grafting.

(1) OJ No L 54, 5. 3. 1979, p. 1.
(2) OJ No L 367, 31. 12. 1985, p. 39.

This amount may be increased by a maximum of :

— 200 ECU per hectare in the case of grouped restructuring,

— 400 ECU per hectare in the case of collective restructuring,

— 600 ECU per hectare in the case of collective restructuring carried out in the context of land consolidation at commune level,

— a degressive additional premium paid over several years to persons whose main occupation is farming, to offset consecutive income losses due to restructuring :

This premium shall be granted for a maximum period of four years, to total between 800 and 1 500 ECU per hectare of replanted vineyard or between 200 and 500 ECU per hectare of double-grafted vineyard, depending on the age and the yield of the vineyard which has been grubbed or double grafted respectively.

The yields to be taken into consideration for the granting of the minimum and maximum amounts of the additional premiums shall be 15 and 80 hectolitres of wine per hectare respectively. The procedure for determining the variable amount of the additional premium shall be laid down in the programme referred to in Article 3 ;

(b) in the case of support measures within the meaning of Article 2 (3), investment aid of up to 1 500 ECU per hectare of restructured vineyard where the land improvement operations entail drainage and anti-erosion measures, or work connected with land consolidation, such as levelling, the creation of embankments, ditches and access roads or tracks and other work made necessary as a result of land consolidation.

Aid for the technical assistance necessary for carrying out the restructuring of the vineyards covered by the common measure, including aid for the preparation of restructuring projects, shall not exceed 5 % of the estimated total cost of restructuring provided for in the programme approved in accordance with the procedure laid down in Article 12 ;

(c) the permanent abandonment premium per hectare referred to in Article 6, the amount of which shall be laid down as follows :

— for areas of not less than 10 ares but not more than 25 ares planted with wine grape varieties and constituting the entire area under vines on the holding concerned : 2 500 ECU,

— for areas of more than 25 ares planted with wine grape varieties :

— 1 000 ECU if the average yield per hectare of the areas is not more than 20 hectolitres,

— 1 600 ECU if the average yield per hectare of the areas exceeds 20 hectolitres but not 25 hectolitres,

— 2 200 ECU if the average yield per hectare of the areas exceeds 25 hectolitres but not 30 hectolitres,

— 2 800 ECU if the average yield per hectare of the areas exceeds 30 hectolitres but not 50 hectolitres,

— 3 500 ECU if the average yield per hectare of the areas exceeds 50 hectolitres but not 90 hectolitres,

— 5 000 ECU if the average yield per hectare of the areas exceeds 90 hectolitres, but not 130 hectolitres,

— 6 200 ECU if the average yield per hectare of the areas exceeds 130 hectolitres but not 160 hectolitres,

— 6 500 ECU if the average yield per hectare of the areas exceeds 160 hectolitres ;

— for areas planted with varieties classified, for the administrative unit concerned, as table grapes or as both table and wine grapes ;

— 5 500 ECU in the case of vines trained by the pergola method,

— 3 500 ECU in the case of vines trained by a method other than the pergola method.

2. The amounts specified in the second and third indents of paragraph 1 (c) shall be increased by 300 ECU per hectare if the areas concerned constitute the entire area under vines cultivated by the applicant.

3. The Portuguese Republic shall be authorized to reduce the amounts specified in paragraph 1 (c) if the applicant for the permanent abandonment premium is a member of a cooperative wine-cellar or other wine-growers' association. In this case, the premium shall be reduced by an amount not exceeding 7 % and the corresponding sum shall be sent to the wine-cellar or association in question.

4. The compensation provided for in Article 6 (2) (c) shall constitute intervention intended to stabilize the agricultural markets within the meaning of Article 1 (2) of Regulation (EEC) No 729/70.

5. The Fund, Guidance Section, shall repay to the Portuguese Republic 50 % of eligible expenditure within the limits laid down in paragraph 1 for restructuring.

As regards the permanent abandonment premium, the Fund, Guidance Section, shall repay 70 % of expenditure within the limits laid down in Article 6 (4).

As regards the compensation provided for in Article 6 (2) (c), the Fund, Guarantee Section, shall finance 90 % of expenditure within the limits laid down in Article 6 (4).

Article 10

1. The period for carrying out the common measure shall be 10 years.

2. Every year, the Portuguese Republic shall submit a progress report on the common measure in accordance with the procedure laid down by the Commission when the programme is approved.

3. Before the expiry of the period provided for in paragraph 1, the Council shall decide, on a proposal from the Commission, whether the common measure should be extended.

4. The estimated cost of the common measure to the Fund is 73 million ECU, that amount being indicative only.

5. Article 6 (5) of Regulation (EEC) No 729/70 shall apply.

Article 11

1. Applications for repayment shall relate to expenditure incurred by the Portuguese Republic during one calendar year and shall be submitted to the Commission before 1 July of the following year.

2. Any decision to grant aid from the Fund shall be taken in accordance with Article 7 (1) of Regulation (EEC) No 729/70.

3. Advance payments may be granted by the Fund depending on the financing arrangements adopted by the Portuguese Republic and the progress of the measures provided for in Titles I and II.

4. Detailed rules for the application of this Article shall be adopoted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70.

Article 12

1. Where reference is made to the procedure laid down in this Article, the Standing Committee on Agricultural Structures shall be consulted by its chairman, either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Standing Committee on Agricultural Structures shall deliver its opinion on the draft within a time limit which the chairman may lay down depending on the urgency of the matter. The opinion shall be delivered by a majority of 54 votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall adopt the measures, which shall be immediately applicable. However, if these measures are not in accordance with the opinion adopted by the Standing Committee on Agricultural Structures, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer, for not more than one month from the date of such communication, application of the measures which it has adopted.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 13

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 Brussels, 14 July 1986.

For the Council

The President

M. JOPLING